

Gen
347.59
F636
1988
v. 7



Digitized by the Internet Archive
in 2012 with funding from
LYRASIS Members and Sloan Foundation

<http://archive.org/details/actsofle1828flor>

STATE LIBRARY OF FLORIDA



3 1246 00254 6416

Gen 347.59 F636 1988 v. 7

Florida.

Acts of the Legislative
Council of the Territory of
Florida

STATE LIBRARY OF FLORIDA
R. A. GRAY BUILDING
TALLAHASSEE, FLORIDA 32301

ACTS

OF THE

LEGISLATIVE COUNCIL

OF THE

Territory of Florida,

PASSED AT THEIR SEVENTH SESSION

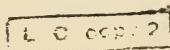
1828

BY AUTHORITY.

PRINTED BY WILLIAM WILSON,

TALLAHASSEE

1829.



300
31159
FL36
1978
197

1988

Florida State University
College of Law Library and
LBS Archival Products produced the
Laws of Florida Territory replacement
volumes on paper that meets
ANSI Standard Z39.48-1984.
Original editions for copying were
provided by the law libraries of the
Florida Supreme Court, the
University of Florida, the
University of Miami, and
Florida State University.



RULES OF PRACTICE
FOR THE
COURT OF APPEALS
OF THE TERRITORY OF FLORIDA.

RULE 1st. It shall be required of an applicant for admission as an Attorney and Counsellor in this Court, that he should have practiced as such, in a Superior Court of this Territory, and have sustained a fair private and professional character.

RULE 2d. The practice of the Supreme Court of the United States, so far as the same is consistent with the Organic Law, and with the acts of the Legislative Council, shall be the out-line of the practice of this Court, to be altered from time to time as circumstances may render the same necessary.

RULE 3d. Previous to the argument of any cause in this Court, it will be expected that the Counsel engaged in such cause furnish the Court with the material points, in writing.

RULE 4th. No Record of the Court shall be suffered by the Clerk, to be taken out of his office but by consent of Court.

RULE 5th. In every cause in which the defendant shall fail to appear, the plaintiff may proceed "ex parte."

RULE 6th. If the defendant shall refuse to plead to issue, and the cause shall be called for trial, the Court may proceed to hear an argument on the part of the plaintiff, and give judgment according to the rights of the cause.

RULE 7th. When it shall be made to appear to this Court, that an appeal has been prayed and allowed in a Court below, and that the same has not been brought up and placed upon the docket as the law requires, the same shall be annulled on motion, and the judgment of the Court below, shall proceed to execution as if no such appeal had been allowed.

RULE 8th. Whenever, pending a suit in this Court, either party shall die, the proper representatives in the personality or realty of the party deceased, may voluntarily come in and be made party to the suit, and thereupon, such suit shall be determined as other suits; and if such representatives shall not voluntarily become party, then the other party may

suggest the death on record: whereupon, on motion in writing, he may obtain an order that, unless such representatives shall not voluntarily become party, then the other party may suggest the death on record: whereupon, on motion in writing, he may obtain an order that, unless such representatives shall become party within the first three days of the ensuing term, he shall, if defendant, be admitted to have the suit dismissed, and if the plaintiff [a hearing being had] to have the judgment reversed if erroneous; provided, that a copy of every such order shall be printed in some newspaper at the seat of Government, for three successive weeks, beginning at least sixty days before the first day of the term of the Court of Appeals, then next ensuing.

RULE 9th. No cause shall be heard, until a complete record shall be filed with the Clerk of this Court, containing in itself, without reference "aliunde," all the papers, exhibits, depositions and other proceedings, which are necessary to a hearing in this Court.

RULE 10th. In all cases in which a writ of error, or appeal, shall appear to have been sued out, merely for delay, damages shall be awarded under the statute, not exceeding twenty per cent.: but in cases where there exists a real controversy, the damages shall be only at the legal rate of interest.

RULE 11. All parties in this Court not being residents of the Territory, shall give security for the costs accruing in this Court to be entered of record.

RULE 12th. If the Clerk of this Court shall produce satisfactory evidence by affidavit, or the acknowledgment of the parties, or their sureties, of his having served a copy of the bill of costs due by them respectively in this Court, on such parties or sureties, an attachment may issue against such parties or their sureties, to compel payment of such costs.

RULE 13th. Only two Counsel shall be heard on either side of a cause, unless by special permission of the Court.

RULE 14th. Whenever it shall be necessary or proper, in the opinion of any Judge of a Superior Court, that original papers of any kind, should be inspected by this Court on appeal, such judge may make such rule or order, for the safe keeping, transporting, or return of such original papers, as to him may seem proper, and this Court will receive and consider such original papers in connection with the transcript of the proceedings.

RULE 15th. No certiorari upon a suggestion of a diminu-

(3)

tion of the record, shall be ordered in any cause, unless a motion shall be made thereto in writing, setting forth the facts upon which the same is founded, which, if not admitted by the other party, shall be verified by affidavit: and all such motions shall be made at the terms at which the cause is sent up to this Court, otherwise they shall not be granted, unless upon special cause shown to the Court accounting for the delay.

RULE 16th. In all causes brought up to this Court, it shall be the duty of the plaintiff's Counsel to assign errors, or file exceptions, as the case may be, and he shall not be permitted in argument to discuss any other matters on the record, save those included in the bill of errors, or exceptions, filed.

RULE 17th. Immediately after the opening of Court on each day and before argument, the Court will entertain motions.

RULE 18th. [*Adopted by the Court of Appeals, January Term, 1837.*] That in all cases brought into this Court, by appeal, writ of error, or otherwise, either party shall be admitted to apply for and receive from the clerk of this court, a copy of the record, the costs of which, shall abide the event of the suit, and be taxed as other costs in the case.

RULES
ADOPTED BY THE COURT OF APPEALS

FOR THE
GOVERNMENT OF THE PRACTICE

IN THE
SUPERIOR COURTS OF FLORIDA

JANUARY ELEVEN, 1863.

JANUARY TERM, 1833.

Sec. 12. Be it further enacted, That the said Court of Appeals shall have power, and it shall be its duty, to make all necessary rules for the

"Sec. 12. Be it further enacted, That the said Court of Appeals shall have power, and it shall be its duty, to make all necessary rules for the regulation of the Superior Courts, as well as for the Court of Appeals."—*Act of the Legislative Council, approved Feb. 10, 1832.*

TERRITORY OF FLORIDA: }
CITY OF TALLAHASSEE: }
Present: }
COURT OF APPEALS: }
January Term, 1833. }

Present:

The Hon. THOMAS RANDALL,
Judge of Middle Florida, and President of the Court.

The Hon. JOHN A. CAMERON,
Judge of West Florida.

The Hon. ROBT. RAYMOND READ,
Judge of East Florida.

Two, ESTON RANDOLPH, Marshal.

JAMES S. LINN, Clerk.

Judge WEBB, of the Southern District, was prevented from attending the Court by unavoidable circumstances.

RULES.

LAW DEPARTMENT.

I. ALL Inquisitions and Recognizances shall be returned as soon as practicable after they are taken, to the Clerk of the Superior Court, where they are properly returnable; and the Clerk of the Court shall transmit the same by the first safe conveyance (the mail excepted) to the District Attorney.

II. All Recognizances by order of Court, shall be taken and entered of record by the Clerk, under the direction of the District Attorney.

III. The usual forms of receiving bills and arraigning prisoners, shall be observed in the Courts.

IV. The right of concluding a criminal case belongs to the District Attorney, but cannot be delegated by him to another person.

V. If defendants under recognizance fail to appear when the Criminal Docket is under consideration and their cases called in order, their recognizances shall be estreated and forfeited.

ATTORNEYS AT LAW.

VI. Persons making application for admission to the Bar, shall apply by petition to one of the Judges of the Superior Courts, presenting with the said petition, evidence of having attained the age of twenty-one, and of good moral character; if the application be made in vacation, the Judge shall at a convenient season, thoroughly examine, at his chamber, the said applicant, and if found qualified, the Judge shall cause him to be duly *sworn in*, and shall issue to him a License, in the following form:

"At Chambers, day of 18

To A. B. Esquire

THESE are to permit you to practice as an Attorney, Counsellor and Solicitor, in the several Courts of the Territory of Florida. C. D.

Judge S. C. D. Florida."

Which said license shall be recorded by the Clerk upon the minutes of the Court, and then delivered to the Attorney; and the said Clerk may, if required, issue to said Attorney at Law, the following commission, for which he may charge and receive the sum of five dollars.

"TERRITORY OF FLORIDA.

KNOW ALL MEN by these presents, that A. B. Esquire, having made application to plead and practice in the several Courts of this Territory, and the said A. B. Esquire, having given satisfactory evidence of good moral character, as the law directs, and having been duly examined touching his knowledge of the Law, and found well qualified and skilled therein: He was admitted to all the privileges of an Attorney, Solicitor and Counsellor at Law in the several Courts of this Territory.



IN WITNESS whereof, the presiding Judge hath hereunto set his hand, with the seal of the Court annexed, this day of in
the year 18 C. D.

E. F. Clerk Judge S. C. Dist. Florida"

If the application be in Term, the Court shall appoint two members of the Bar to examine the applicant, and shall administer to them the following oath : “ *You and each of you, do solemnly swear that you will, well and truly, examine A. B. touching his qualifications as an Attorney and Counsellor at Law and Solicitor in Equity, and that you will faithfully report the result of such examination to the Court. So help you God !* ” And the said examination may proceed in open Court, or be conducted in private, at the election of the examining Committee ; if the report of the Committee be favorable to the applicant, the License and Commission shall issue, as aforesaid. Though the above shall be the usual course of proceeding, nothing herein contained, shall prevent the Judge from alone conducting the examination in open Court, or appointing a committee to examine in vacation, should the said Judge think proper to do so.

VII. A license such as is described in the foregoing rule, or a certificate under the hand and seal of the clerk of one of the circuit courts of the United States of admission to practice in said circuit court, shall be sufficient to admit the party applying, to appear in any Superior court of the Territory, as Attorney or Solicitor—but the license or certificate must be first recorded as the law directs.

VIII. The oath of the applicant for admission to the bar, shall be as follows : “ *I, A. B. do solemnly swear, that I will support the Constitution of the United States. I do further swear, that I will honestly demean myself in my profession, and exercise the duties thereof to the best of my skill and abilities, so help me God !* ”

IX. No Attorney or other officer of court shall be taken as bail in any criminal case, or as security in any appeal, writ of error, or other proceeding.

X. It shall be the duty of every Attorney to address the court from his place at the bar.

XI. No consent between counsel can be enforced by the court, unless reduced to writing and signed by the parties to the consent.

XII. There shall be but one Attorney on record for each party in a cause (except in the case of a law-partnership), but there may be as many associate counsel as either party may

N. B. The rules for the admission of Attorneys, have no relation to applications of Attorneys from Alabama and Georgia, under the act of the twentieth of November, 1829.

see fit to employ ; and the Attorney on record shall in all the pleadings and proceedings sign his name to the same, or authorise some person to sign for him.

CLERKS.

XIII. Every clerk shall keep a separate book, to be called “*The Memorandum Book*,” in which he shall carefully transcribe every *precipe* or *memorandum*, or other direction to issue process, or writs of attachment.

XIV. The clerk shall keep the following dockets, full copies of which shall be furnished by him to the bar, which shall be called “*bar dockets*” in contradiction to “*bench dockets*”—and the bench dockets shall not be subject to the inspection of the members of the bar, or other person, while the court is in session, viz :

1. THE COMMON LAW APPEARANCE DOCKET : containing the cases brought to each term.

2. THE COMMON LAW TRIAL DOCKET : containing all the cases standing for trial, and the entries made therein upon the appearance docket.

3. A MOTION DOCKET : upon which shall be placed all motions which are not of course and which are *litigated*—and no such motion shall be heard, unless in its order upon said docket.

4. A SHERIFF’S REPORT DOCKET : containing all *illegalities* and claims.

5. A CRIMINAL DOCKET.

6. A DOCKET OF APPEALS AND WRITS OF CERTIORARI.

7. AN EQUITY DOCKET.

8. A DOCKET OF LAND-CLAIMS.

9. A SUBPOENA DOCKET.

10. A JUDGMENT AND EXECUTION DOCKET.

11. A DEAD DOCKET : on which shall be placed all cases wherein the plaintiff or defendant or both are dead.

XV. The clerk shall also keep a *book of fines*, in which he shall enter the amount of fines—the time at which it was imposed—the amount paid and *when*, and the disbursement of the same.

XVI. The clerk will strictly observe the regulations contained in the 59th section of the act regulating judicial proceedings, approved 23d November, 1828 ; and in addition to the provisions of the said 59th section, it shall be the duty of the clerk, on receipt of any deposition to be read in evidence

on the trial of any cause, whether said deposition have been taken under a commission or otherwise, immediately, if deposited in due form, to break the seal of the *envelope* and endorse on the said *envelope*, the title of the cause, and the names of the witnesses whose depositions have been taken, together with the date of the time when the commission issued, and when it was returned to the clerk's office—which packet so endorsed, it shall then be the duty of the clerk to place on file, among the pleadings of the cause.

XVII. The clerk shall make upon his minutes, a note or statement of all documentary evidence read on any trial; if deeds or other instruments of writing—the names of the parties and date; if depositions—the names of deponents and date of their depositions:—and shall endorse upon every plea, or exhibit in a cause, the time of filing the same.

INTERROGATORIES.

XVIII. All objections to the execution of the commission for taking interrogatories, or to the manner in which depositions are taken, shall be made and disposed of, before the parties go into the trial of the cause.

XIX. All objections to interrogatories or the form in which they are conceived, must be assigned in writing by the *cross examinant* before the depositions are taken.

MOTIONS AND NOTICES.

XX. All notices required by the law or by these rules, shall be in writing [unless when otherwise directed] and affidavits of the service thereof, will be required by the court, if said service be denied by the opposite party—and not otherwise.

XXI. All motions arising in cases upon the appearance docket, and all demurrers shall be argued when the cases are called on the said docket, but the court may in its discretion, continue said motions and demurrer for advisement, and order them to be placed on the *motion docket*.

XXII. The first hour of the session of the court on each day, after the first day of the term, shall be occupied in the consideration of the motion docket; unless the court shall think fit to direct otherwise.

XXIII. Notices to produce books and papers must be given ten days at least, before the case is called for trial; but the court must be satisfied that such books and papers are

material in the cause ; and that the notice was not given for delay. If a nonsuit be ordered because the plaintiff does not comply with the notice, or a judgment by default be entered in case of non-compliance by defendant—the said nonsuit may be set aside, and the case reinstated, in the event of the production of said books or papers during the term ; and the said judgment by default may be set aside at any time during the trial ; provided, the defendant has complied with the notice. All such notices shall be made known to the court and insisted upon, before the parties go into the trial of the cause; otherwise, they shall be considered as waived and dispensed with.

XXIV. Upon all motions and rules to show cause, the party showing cause or objecting to the motion, shall *commence* and *conclude*. And no motion, not in its nature *ex parte*, except those made for the continuance of causes when called for trial, shall be made in any cause, without reasonable notice served on the Attorney for the opposite party.

NEW TRIALS.

XXV. If no motion be made for a new trial, or in arrest of judgment, within four days after a verdict rendered, final judgment thereon shall be entered ; but if the court should be about to adjourn, before the expiration of the said four days, such motion must be made and submitted for argument, before the adjournment of the court. And when the court shall adjourn after any jury trial, before the lapse of the said four days, the judgment shall be entered as of the same term, at which the cause was tried, and in no case, unless for special reason, delayed until the next term.

XXVI. No motion for a new trial shall be made, unless due notice thereof shall be served on the opposite party, with a statement of the grounds on which it is intended to make the motion.

XXVII. The court will grant new trials in all cases tried by a jury, wherein the verdict is against law or evidence, or against the manifest weight of the evidence, or where there has been any material mistake, or misconduct of the jury ; or where the damages awarded by the Jury, are grossly excessive, and in the opinion of the court are unreasonable ; or where the party applying for a new trial, alledges and shewn by affidavits the discovery of new and material evidence, which he was not aware of, and could not produce at the trial.

XXVIII. In all cases of new trials granted, except where the verdict is against law or evidence, the costs of the former trial shall be paid *instanter* by the party obtaining the new trial.

ORDER OF BUSINESS—PLEADING—PRACTICE.

XXIX. The court shall call its Dockets of cases for trials *twice* at each term, if time allow thereof.

XXX. When a case is called in its order, the same must be tried, continued or dismissed, but by consent, the cause may be placed at the foot of the docket to be again called; if there be time for the second calling of the docket, and if there be not, to be continued. ~~If~~ *The second calling must be peremptory.*

XXXI. Parties must be prepared to proceed within five minutes after the case is called in its order, otherwise, the court may dismiss the case, or rule the defendant to a trial, as sound discretion may direct.

XXXII. In all cases where application is made for continuance, [unless on the ground of a sudden and unexpected emergency] the party making the application must have his affidavit prepared and ready to be read, on the calling of the cause.

XXXIII. The plaintiff shall, in no case, be *compelled* to submit to a non suit—if he be in a condition to demand and proceed to trial; but if he desire to submit to a non suit, he must do so before the jury retire or commence their deliberations on their verdict.

XXXIV. The plaintiff may at any time discontinue his cause, on entering such discontinuance in the clerk's office, and paying all costs.

XXXV. The time for calling the criminal docket shall be announced at the opening of the court, on the second day of the term, and the said docket shall be called at the time appointed, in the same manner and order as the civil trial docket is called.

XXXVI. All Declarations must be filed on or before the first day of the term; and all Pleas, Answers or Demurrers, on or before the calling of the Appearance Docket, on the last day of the term.

XXXVII. All issues may be made up when the cases are called for trial, but when a demurrer is filed, notice thereof must be given in time, for joinder therein, before the appearance docket shall be called.

XXXVIII. The mere entry of the name of the Attorney for the defendant, shall be equivalent to the filing of the general issue, at the first term—but if no plea be filed on or before the first day of the second term, with notice thereof to the plaintiff's attorney—the plaintiff may enter his judgment by default, for want of a plea.

XXXIX. If the plaintiff fail to file his declaration on or before the first day of the term, the next shall be considered the appearance term, and if the declaration be not filed on or before the first day of the next or second term, the case shall, on the calling of the appearance docket, be dismissed.

XL. No default shall be opened, without the payment of all costs that have accrued, and pleading *instanter* to the merits of the action.

XLI. No amendment of the pleadings shall be allowed after the case has been submitted to the jury. The case shall be considered as *submitted*, after the plaintiff shall have read the declaration in the cause.

XLII. All amendments of mere *form* shall be ordered *instanter* and without prejudice to either party. Amendments affecting the merits of a cause, may be ordered at the discretion of the court, upon payment of costs, and on such terms as the court may think proper to impose; but where a substantial amendment is made, the opposite party may continue on motion.

XLIII. In all actions where the general issue may be pleaded, and the defendant thinks proper to plead the same, he may, instead of additional special pleas, give notice in writing of any special matter which he intends to give in evidence on the trial, subjoining such notice to the plea of the general issue, and to which notice no replication shall be necessary; and the said notice shall form a part of the record in the cause, but the defendant in all cases, may plead as many special pleas, though inconsistent with each other, as he may deem fit.

XLIV. If a demurrer to any declaration, or any count in a declaration be over-ruled, or the prayer for leave to plead further by the defendant, such leave will be granted, only on payment of costs, and on terms of pleading issuably *instanter*, and going to trial at the same term of the court, if the cause by due course of law be triable at that term, if not, at the ensuing term. If the demurrer be sustained, the plaintiff shall have leave to amend, on payment of all costs, but in that case

the defendant shall not be compelled to go to trial until the next term of the court. In the case of a demurrer to any other pleading in a cause, on the decision thereof, the court will make such order, or give such judgment as law and justice shall require.

XLV. Suits may be brought by a plaintiff for the use of another person named in the process or the pleadings.

XLVI. Where documentary evidence is introduced in a cause it shall be forthwith filed with the clerk, and considered in the custody of the court. Such papers as belong of right to the party may be withdrawn upon cause shown in the progress of the suit, or after the case is at an end, on motion and by order of court, upon such terms as the court may prescribe.

XLVII. In all examinations of witnesses, the party introducing the witness shall first examine him, and after the cross examination by the opposite party, and a re-examination by him taking the witness, the examination shall cease, unless by special permission of the court. Only one counsel on each side, shall conduct the examination of witnesses, but the court, on application, may allow counsel to relieve each other, in the course of a protracted examination.

XLVIII. Only one counsel shall be heard in conclusion. When the defendant introduces no evidence he is entitled to the conclusion. In cases of claim, the plaintiff in execution is entitled to the commencement and conclusion, except where the claimant introduces no evidence.

XLIX. Where a party applies for a continuance on the ground of the absence of a witness, it must be shown by affidavit, that the witness has been duly served with a subpoena, or a satisfactory reason assigned for the omission; that he is absent without the consent of the party directly or indirectly given; that he resides in the county where the suit is pending, or if out of the county, good cause must be shown for not taking his deposition; that the testimony is material; that the applicant expects to procure said testimony at the next term; that the application is not made for delay only; and the party must further state the facts expected to be proved by said witness.

L. The court will in all cases, in its discretion, for good cause shown on a trial, order a juror to be withdrawn—and in such a case the cause shall be continued until the next term, unless the parties agree, with consent of the court, to a trial at the same term.

LI. The counsel on either side may *except* to any decision

made by the court during the trial, on the admission or rejection of evidence, or on any point of law, and may also except to any opinion given in the judge's charge to the jury, and may request the judge to charge the jury in any particular manner on a point of law, and if the request be refused or neglected, an exception may also be taken to such refusal or neglect.

LII. Whenever any *exception* is taken to any decision made, or opinion given by the judge, or to his refusal or neglect to charge the jury as requested, the counsel taking the exception, shall hand to the judge a note thereof, and pray the same to be entered on the minutes; after which, before the adjournment of the court, if there be time, the bill of exceptions shall be drawn up in form, and the original or a copy thereof delivered to the counsel of the opposite party, who shall have reasonable time to suggest amendments to the same, and if the counsel on both sides cannot agree on the amendments suggested, both the bill and the amendments shall be submitted to the judge for his correction, and when completed, it will be signed and sealed by the judge and delivered to the party obtaining it, and by him filed in the clerk's office, where it shall form a part of the record in the case, in the event of writ of error or appeal; but no bill of exceptions shall be filed if not drawn up, completed and signed within thirty days after the adjournment of the court.

LIII. Previous to the entry of final judgment in any cause, the clerk shall make out a bill of the ~~costs~~, or the attorney for the party entitled to the judgment, may make out the bill, with the aid of the clerk, and the bill or a copy thereof, before taxation, shall be shown to the attorney for the opposite party, and if any objection to it be made, it shall be submitted to the court for correction, and be finally taxed, when the amount of it shall be entered of judgment, either as forming a part of the judgment in the cause, or for the costs alone as the case may require.

LIV. Whenever costs are awarded on any proceeding in a case, whether setting-aside defaults, over-ruling demurrers, or motions, or granting continuances, they shall be paid *in-santaer*, or if not paid, judgment shall be entered for them, on motion, and execution may issue on such judgments, as in other cases.

LV. Whenever any cause is discontinued by order of the court, for want of due prosecution, judgment thereon as in

case of *non-suit* or *non-pros.* as the case may require, shall be immediately entered by the clerk for the costs after being taxed.

The Judges of the Court of Appeals have adopted the foregoing rules for the government of the practice in the several districts of Flordia. They do not believe the *system* presented to their brethren of the bar is a perfect one, but they entertain the opinion, notwithstanding, that it is better than *no system at all.* It will be their duty hereafter to revise these rules—to expunge such as may prove inconvenient in practice, and to add others which *their own experience,* and *the learning and intelligence of the bar,* may from time to time suggest.

AN ACT

For the relief of James M. McIntosh.

WHEREAS it has been satisfactorily proved to this Legislative Council, that Elizabeth McIntosh who before her intermarriage with James M. McIntosh, was named Elizabeth Aikin, has violated her conjugal fidelity to her said husband, then being a resident of Monroe county in the Territory of Florida, in a most public and shameful manner ; and whereas the said James M. McIntosh has petitioned to be divorced from his aforesaid wife. Therefore for the relief of the said James M. McIntosh.

Preamble

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage contract of the said James M. McIntosh and Elizabeth McIntosh formerly Elizabeth Aikin, be, and the same is, hereby dissolved and annulled ; and the said James M. McIntosh and Elizabeth McIntosh formerly Elizabeth Aikin, are hereby absolutely divorced from the bonds of Matrimony as fully, absolutely and entirely, as if they, the said James M. McIntosh and Elizabeth McIntosh, formerly Elizabeth Aikin had never been married.

James M. Mc-
Intosh, & wife
divorced, a vi-
cato matrimo-
ni.

Passed October 16th, 1828.

PETER ALBA,
President of the Legislative Council

THOS. MUNROE, Clerk.

Approved October 18th, 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT.

To establish the seat of Justice for the County of
Jackson.

Seat of justice
for Jackson
county estab-
lished at Mari-
anna.

Proviso.

Commission-
ers of public
buildings na-
med.

to locate a
quarter sec-
tion of land
and sell the
same.

Sec. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, that the Town of Marianna in the County of Jackson shall be and is hereby established as the seat of Justice for said County, and that the Court House of said County shall be erected upon the public square of said town, and until the said Court House shall be erected, the Superior and County Courts for said County shall be held at such place in the said town of Marianna, as the respective Ministerial Officers of said Courts shall deem most convenient : *Provided* that the owner or owners of the public square, and lots numbers ninety one and ninety two in the said Town of Marianna shall relinquish and convey on or before the first day of January next the said square and lots to the herein after designated Commissioners for the use of the said County.

Sec. 2. Be it further enacted, That John G. Smith, James W. Exum, Geo. Portress, John P. Lockhart and Joseph Russ, be and they are hereby appointed Commissioners to contract for and superintend the building of a Court House for said County, on the public square of the said Town of Marianna, and a Jail in such lot in said town as shall seem to them most convenient, and the said Commissioners are hereby further authorised to locate and enter the quarter section of land to which the County of Jackson is entitled by law, and to sell and dispose of the same, at public auction on the first Monday of January next, on the public square of said town, to the highest bidder, giving four weeks public notice of said sale by Advertisement in one of the public Newspapers printed at the City of Tallahassee, and apply the funds arising from the sale of the said land, towards the erection of the public buildings.

Sec. 3. Be it further enacted, That the said Commissioners, be and they are hereby vested with full power and authority to ask, demand, receive, sue for and col-

Let all monies due their predecessors, to wit, James Webb, C. C. Nichols, William Patterson, Arthur Foster and George Jackson by subscription or otherwise, and the same to be appropriated to the sole use of erecting said public buildings.

to receive all monies due former commissioners.

Sec. 4. Be it further enacted, That the said Commissioners shall on the first monday in January next, give out the said public buildings to the lowest bidder at public out-cry on the square of the said town and to do all other act or acts, deed or deeds, that may be required in order to carry on and erect said public buildings, to make out the plan or plans themselves and pursue the most economical course towards finishing said buildings, and to have the same finished and completed as early and in such manner as to them shall seem most convenient and just.

Time & manner of letting out public buildings.

Sec. 5. And be it further enacted, That the said Commissioners shall give bond to be approved of by the Judge of the County court of said County with security in the penal sum of five thousand dollars, conditioned for the faithful discharge of the duties imposed upon them by this act, and the said commissioners shall account to the said county court for the disbursements of all monies, and shall be allowed such compensation for their services as the said Court shall deem just and reasonable.

Commissioners shall give bond

Sec. 6. Be it further enacted, That the act entitled "an act to establish the site for the Court house and other public buildings for Jackson County, passed January 16th 1827, and approved 20th January 1827 and also the act entitled "an act to amend an act entitled an act to establish the site for the court house and other public buildings for Jackson County," passed January 18th, 1828, and approved January 19th 1828, and all other acts and parts of acts, inconsistent with the provisions of this act be and the same are hereby repealed.

shall account to the county court,

Sec. 7. And be it further enacted, That this act shall be in full force from the passing and approval of the same,

Repealing section.

Passed 20th October 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, 20th October, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Time of operation.

AN ACT

To amend an act, entitled, an act concerning Divorce and Alimony.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That so much of the act, to which this is an amendment, as requires a residence of twelve months in this Territory to entitle the party applying for the same to the benefit of said act, be and the same is hereby repealed, and that from and after the passage of this act, no particular period of residence shall be required, provided the party or parties petitioning for the same shall be actual residents of this Territory.

Passed 21st October, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROL, Clerk.

Approved October 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To declare the Chipola River a navigable stream, and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Chipola River is hereby declared, and hereafter to be recognized in law as a navigable stream as far up as the natural bridge on said river.

Sec. 2. *Be it further enacted,* That Henry L. Revier, Robert Beveridge, James S. Murphy, Thomas Russ, Jacob Robinson, Isaac Hort and John Hopson be and they are hereby appointed commissioners, who, or a majority of them shall have full power to direct and superintend the opening of the Chipola River, as far up as to them shall seem necessary, and they are hereby declared to have full power and authority to do and perform all acts and doings that shall become necessary to effect the same, and to ask, demand, receive, sue for, in their own name jointly as commissioners of the said Chipola

No stated period of residence necessary to entitle a party to the benefit of this act

Chipola river
a navigable stream

Commissioners appointed.
Their duties and powers.

River, all sums of money that may become due and owing to said commissioners, whether by subscription or otherwise, and appropriate the same to the sole use of clearing out the said River.

Sec. 3. *Be it further enacted*, That every person subject by law to work on public roads, who lives within five miles of said River on either side from the natural bridge down, shall by the commissioners aforesaid be made subject under their direction to work six days in each and every year, in opening and clearing out said river, and every person being within five miles of the river aforesaid, made subject to work on the same by this act, shall incur the same fine, to be recovered in the same manner by the commissioners, as persons subject to work on roads failing therein, and subject to and to be applied when collected to the purpose of opening and clearing out the said River Chipola.

Sec. 4. *Be it further enacted*, That the commissioners, or a majority of them are hereby authorised to raise by way of lottery, the sum of five thousand dollars for the purpose of improving the navigation of said river on such scheme, as they may deem most expedient, which shall be applied to the purpose aforesaid, in such manner, as the said commissioners may deem most advisable, or as the commissioners, or a majority of them may adopt.

Sec. 5. *Be it further enacted*, That the said commissioners shall on the first day of January in each and every year make a correct return to the county court of all the funds arising in the manner as aforesaid, or in any manner received by them for the purpose aforesaid, as well as all the monies paid out and expences incurred for the use aforesaid,

Sec. 6. *Be it further enacted*, That the said commissioners before they enter on the duties aforesaid shall take an oath before some magistrate, or judge of the county court, honestly and faithfully to discharge the duties required of them by this act, and to pay over to the county Treasurer all sums of money that may not be appropriated to the use aforesaid after the opening and clearing out of the said creek, if there be any, to be hereafter appropriated to the use of the said navigation, when called for by the said commissioners, or their successors in office.

Sec. 7. *Be it further enacted*, That the said commis-

Persons subject by law to work on the road, shall work on the river in clearing out the same.

Commissioners authorized to raise funds by lottery.

Commissioners to make return to the county court.

Shall take an oath

And pay over all monies that may not be disbursed.

To give bond
in the sum of
\$10,000.

Condition.

Time of oper-
ation.

sioners before they enter upon their respective duties as commissioners, shall give bond and security to the county court of Jackson county, to be approved of by the said court in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties required of them by this act.

Sec. 8. And be it further enacted, That this act shall be in full force from and after its passage.

Passed 25th October, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved 27th October 1828,

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend an act entitled an act to define the boundary lines of Escambia, Walton and Jackson Counties.

Boundaries of
Jackson coun-
ty?

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Jackson County shall be comprehended within a line on the West, corresponding with the Eastern boundary line of Washington county, and on the North by the boundary line of the State of Alabama, to where the same intersects the Chatahoochy River, thence down the channel of said River, and that of the Apalachicola to where the basis parallel line crosses the same, thence West along said line to where the same is intersected by the Range line, dividing the tenth and eleventh Ranges, thence north along said Range line to where it is crossed by the township line dividing the first and second townships, thence West along said township line to where the same is crossed by the Range line dividing the twelfth and tenth Ranges, thence Northwardly the most direct course to Oaky Hill leaving the settlements at the same in Washington county from thence along the Eastern boundary line of Washington county to the line of the state of Alabama.

Sec. 2. Be it further enacted, That all that tract of country lying and being south and west of the southern

and western boundary lines of Jackson county and East to the Eastern boundary line of Washington county that do not belong to the said county, shall from the passing of this act be attached and belong to the said county of Washington any former law to the contrary notwithstanding.

Boundaries of Washington county.

Sec. 3. And be it further enacted, That the third section of the act to which this is an amendment, be and the same is hereby repealed.

Repealing clause.

Passed 25th October 1828.

PETER ALBA,
President of the Legislative Council.
THOS. MUNROE, Clerk.

Approved October 29th 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT.

To incorporate a Company to be entitled the Madison County road and Navigation Company.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That William Baily, William Hollingsworth, John Bellamy, Daniel Bell, William Bellamy, William Hollingsworth, and Abraham Bellamy and such other persons as they may receive into their company, their heirs, successors and assigns shall forever be a body corporate, and politic by the name and style of the Madison County road and Navigation Company; and by such corporate name shall be capable in law to buy, purchase, hold and sell real and personal estate, to receive donations and make contracts, sue and be sued, plead and be impleaded, to make and execute bye laws: *Provided*, the same are not contrary to the laws of the Territory and of the United States, to have a common seal, and alter and renew the same when they may deem it necessary and to do all lawful acts incident to a corporation, and which may be necessary and proper for the convenient transaction of its affairs.

Madison county road and navigation company incorporated

Proviso.

See 2. Be it further enacted, That the said company shall annually hold an election at such times and under such regulations and restrictions as they may in their bye laws prescribe, for a President and as many directors as

To elect annually a President and Directors.

Their power.

Stock shall be
laid off into
shares.

The company
shall have the
right to make
a road &c.

President and
Directors au-
thorised to en-
ter lands &c

shall be required for the management of their business, the number of which Directors to be previously determined on, and declared in their bye laws. And the said President and Directors when elected shall have the power to appoint such subordinate officers and agents as may be necessary, and at any time to dismiss them from office for improper conduct and be capable of exercising such other powers and authorities for the well governing and ordering the affairs of the company as to them shall appear conducive to its interest.

Sec. 3. Be it further enacted, That the stock of said company shall be laid out into as many shares as they may think proper, and the votes of each stockholder shall be according to the number of shares he may hold to be regulated and agreed upon by said company, and made known in its by laws.

Sec. 4. Be it further enacted, That the said company shall have the right to make and establish a road sufficient for the transportation of produce, goods and all other articles whatsoever, from the Withlacoochee river to the head or fork of a creek called by Vignoles, Hatchy Hollawaggy, and now known as Cabbage creek, and to this end may commence said road at any point upon the said Withlacoochee river or on the Georgia line near said river, which may be best suited to the accomplishment of their object, and pursue such courses and directions with the same as may be deemed most advantageous by the President and Directors of said company.—The said company shall also have the right to clear out and make said creek sufficiently navigable for the transportation of produce, goods and all other articles whatsoever, in small crafts or boats in ordinary seasons from the point where said road intersects said creek to the Gulf of Mexico.

Sec. 5. Be it further enacted, That in constructing said road, or making navigable said creek it shall and may be lawful for the President and Directors of said company or any other person appointed by them, to enter upon and take possession of any lands whatsoever, whether covered with water or not, which may be necessary for the prosecuting and completing the works contemplated by this act, or whereupon it may be necessary to straighten said creek by a canal from point to point, or to construct and erect any locks, dykes, em-

bankments, dams and other works intended or implied by this act.

Sec. 6. Be it further enacted, That it shall be lawful for the President and Directors of said Company, or any other person appointed by them to take from any lands most convenient to said works at all times such timbers, stones and other materials, as may be necessary for the erecting and repairing the same: *Provided*, that, in all cases due compensation shall be made by said corporation for any such land, timber and other materials taken as aforesaid if required by the owners of the same which shall be adjudged by a court of competent jurisdiction if not agreed upon by the parties.

To make use
of timber &c.

Proviso.

Sec. 7. Be it further enacted, That it shall be the duty of said company to commence their works for the making said road and clearing out said creek within the term of two years from the passage of this act, and if said company shall fail to commence said works within the time aforesaid, or, after having began the same shall abandon or neglect it for the term of twelve months at any one time, or if after said works have been completed they shall permit the same to go down and remain so for twelve months without any attempt to repair the same, then and in either of said events, the said Corporation shall be dissolved, unless the operations on the same have been suspended from high or low water or any other unavoidable cause.

Company
shall com-
mence their
work within
two years.

Causes which
shall dissolve
this company.

Sec. 8. Be it further enacted, That the said company shall have a right to demand and receive tolls and fees for the transporting produce, goods or other articles upon said road and creek, or for permitting carts and waggons to pass said road, or boats or other craft to navigate said creek, at such rates as may be agreed upon and determined by a majority of the share holders, which tolls and fees shall be expressed and made known in the bye laws of said company, but may be changed whenever circumstances may render it necessary in the opinion of the President and Directors of said company: *Provided*, that said tolls or fees shall not be increased without previous public notice of such increase. And the said company shall continue to receive said tolls and fees, so long as the said road or creek shall be kept in sufficient order by said company, their successors, heirs or assigns for the transportation as aforesaid, and all produce goods,

Shall have the
right to receive
tolls and fees.

Proviso.

Lien on goods
&c for toll.

boats, crafts, waggons or other articles or things transported or conveyed, on said road or through said creek, shall be liable for said tolls and fees and may be retained until the same are paid.

If said road
should be out of
repair.

Sec. 9. *Be it further enacted,* That if at any time said road or creek should need repairs, and in consequence of which, transportation over the same should be suspended until the same are made, nothing in this act shall be so construed as to prevent said company from demanding and receiving tolls and fees as aforesaid when the same shall be put into operation.

Shareholder
may transfer
&c.

Sec. 10. *Be it further enacted,* That any shareholder in said company shall have the right to transfer his interest in the same or any part thereof to any other person, under such rules, regulations and restrictions as may be prescribed in the byc laws of said company, but the interest of any one or more members in the joint stock, and property of said company shall not be severed from the interest and property of the others so as to impair the value of said works, without the consent of a majority of said company.

The United
States or Territory
shall have the right
to purchase
said Canal and
road.

Sec. 11. *Be it further enacted,* That whenever the Congress of the U: States or the Territory or State (as the case may be) of Florida shall think proper to purchase said road and canal for the purpose of making the same free of toll, the same shall be disposed of at a reasonable compensation to either of the said Governments, which compensation shall be adjudged by arbitrators chosen by both parties, and their decision confirmed by the Superior Court of the County or State (as the case may be;) Provided, also, that nothing in this act shall be so construed as to prevent the crossing of any road or bridge over said canal or road under the authority of the laws of this Territory, and the same shall be kept in repair by said corporation and provided also that nothing in said act shall be so construed as to prevent any future Legislature of this Territory or State (as the case may be) to regulate the toll of said road and canal when they may think proper.

Right of the
Territory to
regulate toll
reserved.

This act to be
liberally construed.

Sec. 12. *Be it further enacted,* That this act shall be liberally construed for the benefit of said company and to carry into complete effect, the objects herein contemplated; and the said company shall be governed

in all its operations not herein provided for, by its own laws; Provided, the same are not repugnant to the laws of this Territory or of the United States.

Passed 25th October, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 1st 1828.

WM. P. DUVAL,

Governor of the Territory of Florida,



AN ACT

Concerning Divorcees and Alimony.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Superior Courts of this Territory shall have jurisdiction of all causes of divorce by this act directed and allowed: Provided, the party applying for such divorcee be an actual resident of this Territory at the time of filing his or her bill for such divorce.

Superior Court
shall have ju-
risdiction of
Divorcees.

Sec. 2. Be it further enacted, That the like process and course of practice and proceedings shall be had and pursued in causes of divorce as is usually had and pursued in other causes in Chancery, except, that the answer of defendant shall not be under oath.

Mode of pro-
ceeding.

Sec. 3. Be it further enacted, That Divorcees from the bond of Matrimony shall be decreed in case the parties are within the degrees prohibited by law, in cases where either party is naturally impotent and in case of adultery in either of the parties and also for wilful, continued and obstinate desertion for the term of three years, but the decree or sentence of Divorce in such cases shall not render illegitimate the issue born during such marriage.

Causes of Di-
vorce.

Sec. 4. Be it further enacted, That divorces from the bonds of Matrimony shall also be decreed where either of the parties had another wife or husband living at the time of such second or other marriage, and marriages where either of the parties shall have a former wife or husband living at the time of such marriage shall be invalid from the beginning and absolutely void, and the

Former hus-
band or wife
living.

issue thereof shall be deemed to be illegitimate and subject to all the legal disabilities of such issue.

Adultery, if by collusion.

Sec. 5. *Be it further enacted*, That if it shall appear to the court that the adultery complained of, is occasioned by collusion of the parties and done with intention to procure a divorce, or, that both parties have been guilty of adultery, then no Divorce shall be decreed.

Divorce a mensa et thoro

If by collusion.

Sec. 6. *Be it further enacted*, That divorce from bed and board shall be decreed for extreme cruelty in either of the parties, but if it appear that the cruelty complained of was occasioned by the collusion of the parties and done with intent to obtain such divorce, then no divorce shall be decreed.

**Maintenance
the wife and
children, in a
wrecce for a
divorce.**

Sec. 7. *Be it further enacted*, That when a divorce shall be decreed on account of the parties being within the prohibited degrees or for the cause of adultery or extreme cruelty, the Court shall and may in every case take such order touching the case and maintenance of the children of that marriage, and also touching the maintenance and alimony of the wife, or, any allowance to be made to her and if any, the security to be given for the same as from the circumstances of the parties and nature of the case may be fit, equitable and just.

**Persons within
the levitical
degrees, cohabiting
after divorce.**

Sec. 8. *Be it further enacted*, That if any persons who, shall be divorced on account of their being within the degrees prohibited by law shall after such divorce cohabit together, such persons so offending shall be liable to all the pains and penalties provided by law, against incest.

**Persons cohabiting
after divorce.**

Sec. 9. *Be it further enacted*, That if any persons shall cohabit or live together in the same house after a divorce for the cause of prior marriage or adultery such persons offending shall be liable to all the pains and penalties provided by law against adultery.

**Where a party
defendant re-
sides out of this
Territory.**

Sec. 10. *And be it further enacted*, That in all cases of divorce, if the party against whom the complaint is made shall reside out of this Territory or have removed or shall after the cause of complaint has arisen, remove out of the Territory, so that process cannot be served, or, if served, the party cannot be compelled to appear, and answer or plead, it shall and may be lawful for the Court, on bill filed and due proof that the defendant resides out of the Territory, or, hath removed as aforesaid, to order a hearing on the facts shown in the said bill and thereupon to pass a decree in the same manner,

as if the defendant had appeared and were present in Court : Provided always, that a copy of the said order for hearing be published in one of the public newspapers of this Territory for the space of three months at least before the day appointed for the said hearing.

Proviso

Sec. 11. Be it further enacted, That the County Courts shall have jurisdiction on application of wives for alimony against their husbands, or the husbands deserting his wife for one year, or, on his living in open or avowed adultery with another woman for three months, and in cases of cruel, inhuman and barbarous treatment.

County Court
may grant ali-
mony.

Sec. 12. Be it further enacted, That such application shall be by bill in Chancery, alleging the cause why alimony is claimed, and the proceeding shall be as in other cases in Chancery, and the facts arising upon the matter in issue shall be determined by a jury; either of the aforementioned causes being found to exist, the Court shall decree alimony out of defendants estate : Provided, however that alimony shall not be granted in case of open adultery of the wife.

Manner of pro-
cedure.

Proviso.

Sec. 13. Be it further enacted, That, a decree of Alimony shall release the wife from the control of her Husband and she may use her alimony and acquire ^{the} use, and dispose of other property uncontroled by her husband, and where the husband is about to remove himself or his property out of the Territory, or fraudulently convey or conceal it, the court may award a *ne exeat* or injunction against him, or his property, and make such order or decree, as will secure the wife her alimony.

Effect of a de-
cree for alimo-
ny.If the husband
is about to re-
move.

Passed 29th October 1828.

PETER ALBA,
President of the Legislative Council.
THOS. MUNROE, Clerk.

Approved October 31st 1828.
WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To prescribe the mode by which attorneys and counsellors at law may be admitted to practice in the courts of the Territory.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the first day of March next, no person shall be permitted to appear as an attorney and counsellor at law in any cause in the courts of this Territory, until he shall have produced to the court in which he proposes to practice, a licence signed by one of the judges of the Superior courts, or a certificate under the hand and seal of a clerk of some one of the Circuit courts of the United States, of his having been admitted to practice in said Circuit court, which license or certificate shall be entered upon the minutes of the court, in which the said attorney wishes to practice and the original returned by the clerk to said attorney.

Sec. 2. Be it further enacted, That it shall be the duty of any person, wishing to obtain a license to practice law in the courts of this Territory, to present to one of the judges of said Superior courts, satisfactory evidence of good moral character, and that he is twenty one years of age, whereupon the judge shall examine into the qualifications of the applicant and, if found qualified, he shall grant him a license to practice in the several courts of this territory, which license shall be entered upon the minutes of the courts, as is prescribed in the preceding section.

Sec. 3. Be it further enacted, That if an application shall be made to any of the judges of said Superior Courts in term time, by any person for a license to practice in said courts, or if from any other cause, it shall be inconvenient for said judge personally to examine into the qualifications of the applicant, he may require the examination to be made by two members of the bar, who shall be previously sworn, faithfully to examine and report as to the qualifications of the applicant, and if they shall report to him that the said applicant is qualified to practice in said courts, such examination shall be as effectual as though it had been made by said judge in person.

Attorneys at
Law how li-
censed.

Qualifications
of an applicant
for license.

Judge may ap-
point examin-
ers.

Who shall be
sworn.

Sec. 4. Be it further enacted, That no person shall be permitted to practice in any of said courts, until he shall have taken an oath to support the constitution of the United States, and honestly, to demean himself in his profession, and exercise the duties thereof, to the best of his skill and abilities.

Oath of an attorney.

Sec. 5. Be it further enacted, That Marshals, Sheriffs, clerks of courts, and their deputies shall not be permitted to practice law in any of said courts, nor shall any person convicted of an infamous crime be permitted to practice therein.

Who are disqualified, from practising.

Sec. 6. Be it further enacted, That nothing herein contained shall be construed to prevent any person from managing his own cause, in any of the courts of this Territory.

Suitors may appear in person.

Sec. 7. Be it further enacted, That if any attorney shall collect money for his employers, and refuse to pay it over on demand, he shall be stricken from the list of attorneys, and shall not be allowed to practice within this Territory, until he shall pay over the money to his client or legal representative, and he shall also be liable to a suit for the same, and subject to a penalty often per cent for every month he shall detain the same after a demand regularly made.

Defaulting Attorneys to be stricken from the roll

Passed 6th November, 1828.

PETER ALBA,
President of the Legislative Council.
THOS. MUNROE, Clerk.

Approved 10th November 1828,
WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT.

Concerning Dower.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That when any person shall die intestate, or shall make his last will and testament, and not therein make any express provision for his wife by giving and devising unto her such part or parcel of real and personal estate as shall be fully satisfactory to

Widow when entitled to Dower.

her, such widow may signify her dissent thereto in the Superior or county courts of the county wherein she resides (and, if there be no court in the county, then to either of said courts in the next adjoining county,) at any time within one year after the probate of such will, and then and in that case she shall be entitled to dower in the following manner, to wit: one third part of all the lands, tenements, and hereditaments of which her husband died, seized and possessed, or had before conveyed, whereof said widow had not relinquished her right of dower as heretofore provided for by law, which third part shall be and inure to her proper use and behoof in and during the term of her natural life: In which said third-part shall be comprehended, the dwelling house in which her husband shall have been accustomed most generally to dwell next before his death, together with the offices, out houses, buildings, and other improvements thereunto belonging or appertaining: *Provided*, that if it should appear to the judge or justices of the courts to whom application is made, that the whole of the said dwelling house, out houses, buildings, and other improvements thereunto appertaining cannot be applied to the use of the widow without manifest injustice to the children or other heirs, then and in that case such widow shall be entitled to such part, not less than one third part as the court may deem reasonable and just.

Sec. 2. Be it further enacted, That when a husband shall die intestate, or shall make his last will and testament, and not make provision therein for his wife as expressed in the first section of this act, she shall be entitled to a share in the personal estate in the following manner, to wit: If there be no children, or if there be but one child, in that case she shall be entitled to one half: but if there be more than one child, in that case she shall be entitled to one third part in fee simple, except slaves, in which she shall have a life estate, and such claim shall have preference over all others.

Sec. 3. Be it further enacted, That it shall be lawful after the passing of this act, for any widow claiming dower, to file her petition in the Superior or county court, in the county where her husband shall have usually dwelt, next before his death (if there be neither of said courts in said county, then and in that case in the

How she shall
be endowed,
of the real es-
tate.

How the wid-
ow shall be
endowed of the
personal es-
tate.

Manner of
proceeding in
Dower.

next adjoining county) setting forth the nature of her claim and particularly specifying the lands, tenements and hereditaments of which she claims dower, and praying that her dower may be allotted to her, Whereupon said court shall issue their writ to the sheriff commanding him to summon five discreet freeholders as Commissioners, connected with the parties, neither by consanguinity or affinity, and entirely disinterested, who upon oath (which oath the sheriff is hereby authorized to administer) shall allot and set off by metes and bounds to the said widow, one third part according to quantity and quality of all the lands, tenements and hereditaments in said county, and shall put her in possession of the same, which possession shall vest in her an estate for her natural life; and when she has claim to dower to lands lying in different counties, she may proceed in the Superior or county Courts, of the County where such lands may lie, and make recovery in manner as is hereby directed, and the sheriff and Commissioners shall also at the same time allot and set off to such widow her portion of the personal estate of which her husband died possessed, and to which by this law she shall be entitled, which part or portion shall be, and inure to such widow her heirs, executors, administrators, and assigns forever, with the exception herein before expressed.

Sec. 4. Be it further enacted, That the proceeding upon such petitions for dower, shall be in a summary way, and the Court shall at their first term when such petition is filed, proceed to hear and determine as to them shall seem just and right, Provided, that the party petitioning for dower shall give ten days previous notice to the executors or administrators, by serving them with a copy of said petition; and where there are no executors or administrators, or where they do not reside in the county the residence of such widow, or where the widow shall be executrix or administratrix, then she shall give said notice by advertisement, in one of the Newspapers published in the Territory, nearest to the residence of such widow, to be published four times in succession.

Sec. 5. Be it further enacted, That it shall be lawful for the widow to retain the full possession of the dwelling house in which her husband most usually dwelt next before his death, together with the outhouses, offices or improvements thereto belonging, free from molestation

Petition to be heard the first term.

Proviso

Widow may retain possession of dwelling house if dower is allotted

or rent until she shall have her dower assigned her, also one years provisions for herself and family to be set apart by three persons appointed by the court for that purpose.

Passed 1st November 1828.

PETER ALBA.
President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 7th 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Concerning Marriage License.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That no Minister shall join any persons together as man and wife without lawful license as by this act required, under pain of imprisonment for one year, without bail or mainprise for every offence and a fine of five hundred dollars.

Ministers may
marrying with
out licenses.

Ministers may
join persons
legally licen-
sed.

County court
to grant licens-
ses.

Certificate of
marriage to be

Sec. 2. Be it further enacted, That any ordained minister of the Gospel, or in regular communion with any religious society of Christians, may solemnize the rites of matrimony, according to the forms of the Church to which he belongs between any persons within the Territory, who shall produce a license pursuant to this act directed to any authorized minister of the Gospel.

Sec. 3. Be it further enacted, That the County Court shall grant licenses to all ministers of the Gospel as aforesaid who shall apply for the same to marry in any County; where there is not a sufficient number of ordained Ministers, Justices shall be under the same rules and regulations, pains and penalties as Ministers of the Gospel.

Sec. 4. Be it further enacted, That to preserve a Register of all marriages a certificate of any marriage, hereafter solemnized, signed by the Minister or Justice of the Peace celebrating the same,

shall be transmitted to the Clerk of the County wherein the marriage is solemnized, within three months thereafter, to be entered on record by the Clerk, in a book by him to be kept for that purpose, which shall be evidence of all such marriages.

registered by
the Clerk of
County Court.

Sec. 5. Be it further enacted, That every Minister or Justice of the Peace (as the case may be) failing to transmit such certificate to the Clerk of the Court in due time shall forfeit the sum of sixty dollars; and if the Clerk of any Court shall fail to record such certificate, he shall forfeit the sum of sixty dollars to be recovered with costs of suit by the informer in any court of competent jurisdiction.

Minister or
Justice failing
to give certifi-
cate.

Clerk failing
to record the
same.

Sec. 6. Be it further enacted, That every license for marriage shall be issued by the Clerk of the County Court of the County wherein the woman usually resides in manner following, that is to say, the Clerk shall take bond in the penalty of two hundred dollars payable to the Governor and his successors, for the use of the Territory, with condition that there is no lawful cause to obstruct the marriage for which the licence is required, and every Clerk failing herein shall forfeit one hundred dollars, if either of the parties intending to marry be under age, the license shall not be issued without the consent of the Parent or Guardian, made verbally to the Clerk, or proof of such consent by the oath of one credible witness; and thereupon the Clerk shall issue said licence and certify the bond is given, and if either of the parties be under age, he shall also certify the consent of the parent or guardian, which shall be a lawful license to any Minister or Justice of the Peace authorised as aforesaid to solemnize matrimony.

Clerk of Coun-
ty court to give
licence.

Shall take
bond &c.

If the parties
be underage.

Sec. 7. Be it further enacted, That if any person shall marry within the levitical degrees, he shall be subject to a fine of one thousand dollars, one half to the informer, the other half to the Territory, and the said marriage shall be annulled and set aside by any court of competent jurisdiction in the Territory, and the Court may require the parties to give bond and security that they will not in future cohabit with each other, and commit them in case of non-compliance: Provided that nothing herein contained shall be construed to render illegitimate the issue of the marriage thus annulled.

Penalty for
marryin within
the levitical
degrees.

Proviso.

Sec. 8. Be it further enacted, That the Clerk of the County Court shall receive the sum of three dollars in all

Fee of the
Clerk of the
County.

cases in which he shall perform the duties prescribed by this act.

Passed 5th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 7th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT.

Authorising Francis Richard to cut a Canal from his Mill to the main Creek of Pottsburgh.

Francis Richard
authorised to cut a
Canal.

May enter on
lands.

Provided he
make compensation.

Sec. 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida,* That Francis Richard of the county of Duval, be and he is hereby authorised and empowered to cut a Canal from his Mill on a branch leading to the main creek of Pottsburgh, and shall enter upon, and take possession of any lands within two miles of his said Mill, that he may deem necessary for the completion of said Canal, and said Canal when completed shall be a public highway : Provided, that due compensation shall be paid by the said Richard, for any lands that he may enter upon, and take possession of agreeable to the above section, which compensation shall be adjudged by three disinterested house holders of Duval County, two of whom shall be chosen by the two parties, and the third by the two so chosen, and their award of compensation aforesaid so made shall be final.

Passed 8th, November 1828.

PETER ALBA,

President of the Legislative Council

THOS. MUNROE, Clerk.

Approved November 12th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To incorporate the Town of Marianna.

Sec. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the free white male inhabitants over the age of twenty one years, comprehended within the South West quarter of Section number three, in Township number four, Range number ten, North and West, lying and being in the county of Jackson, in the Territory of Florida, and their successors be and remain for the term of five years from the passage of this act a body corporate, by the name and style of the Town of Marianna, and by their corporate name may sue and be sued, implead and be impleaded, and do all other acts as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of the said Town.

Town of Marianna incorporated.

Term of incorporation.

Sec. 2. Be it further enacted, That the government of said Town shall be vested in a Town Council, composed of an Intendant and six Councilmen, each of whom shall have the qualification of being the proprietor of a lot or the occupant of a house, and shall have resided three months within the limits aforesaid, in order to fill either of said offices.

Government of the town.

Sec. 3. Be it further enacted, That the Intendant shall have the power and exercise all the duties, and may receive the fees of a justice of the peace within the said corporation.

Powers of the Intendant.

Sec. 4. Be it further enacted, That the said Town Council shall have full power and authority to prevent and remove nuisances, to license and regulate auctioneers and auctions, retailers of goods and liquors, and taverns, to restrain or prohibit all sorts of gaming, to license and regulate theatrical and other public amusements, to establish and regulate markets, to direct the safe keeping of the standard of weights and measures, appointed by Congress, to provide and regulate burial grounds for the use of the said Town, to sink wells and erect and repair pumps in the streets and public squares, to erect and repair Market houses and public scales within the aforesaid limits, excepting the pleasure squares, to establish and regulate patroles, to regulate the storing of gunpowder, to tax and license hawkers and pedlars, to restrain and prohibit tippling houses and

Powers of the Town Council.

lotteries, to provide for the establishment of public schools and superintendance of the same, to restrain and punish vagabond and disorderly persons and the disorderly conduct of negroes and persons of color, and generally to provide for the interior police and good government of said town.

Sec. 5. Be it further enacted, That the said Town Council shall have power to levy a tax for the purposes recited in the preceding section of this act, in such manner and under such circumstances as the said Council shall conceive least burthensome to the citizens and to provide for the collection thereof; Provided that no tax shall be imposed on real property at any higher rate than one quarter of one per cent on the assessed value of the same, and shall have power to make and pass all such ordinances, and to impose such fines and penalties for infringement thereof, or non compliance therewith, as shall to the said Town Council seem necessary, to give effect and operation to the powers and regulations to the duties herein, and hereby given and imposed to and upon the said Corporation or Town Council, any law of this Territory to the contrary notwithstanding: Provided further, that no capitation tax be levied on persons not entitled to vote for Intendant and Councilmen, and Provided that the said ordinances and rules shall be signed by the Intendant and attested by the Clerk, and that no ordinance shall be passed granting any salary, pay or allowance to the said Intendant or Councilmen, or either of them.

Sec. 6. Be it further enacted, That the Town Council shall have power to compel the attendance of its members, and to judge of the election returns and qualifications of the Intendant, and its own members, and the yeas and nays on any question shall at the request of any two members be placed on the record.

Sec. 7. Be it further enacted, That the said Town Council shall have power to elect a Treasurer, Clerk and such other officers as to the said Town Council may seem necessary to give effect to the powers and regulation, to the duties by this act given to, or imposed upon the said Town Council, and to determine the salaries of the said officers and the same to dismiss at pleasure, and two thirds of said Town Council may expel a member of the said Council for disorderly behaviour or mal-conduct in office.

Power of the
Council to le-
vy tax.

Proviso.

To pass ordi-
nances.

Ordinances
shall be signed
by the Inten-
dant and attes-
ted by the
Clerk.

Power of the
Town Coun-
cil to compel
attendance of
members &c.

Power of elec-
ting officers
and expelling
members.

Sec. 8. Be it further enacted, That it shall be the duty of the said town Council to cause to be kept regular records of their proceedings and of their ordinances, rules and regulations, and they shall promulgate their ordinances without unnecessary delay by posting the same at the common market place, or on the court house, or in any news-paper in said town so that that the same be exposed to public view at least four weeks.

Shall publish
the law.

Sec. 9. Be it further enacted, That it shall be the duty the said Town Council to hold their meetings in public, and at such times and places as to the said Council may seem fit, and the Intendant shall be President of the board, and in the absence or disability of the Intendant, a majority of the Council may on any occasion appoint from among their number, an Intendant who shall have power *pro tempore* to do all the duties of Intendant: Provided, however that a majority of the town council then present, may sit with closed doors whenever they may deem the public interest requires it.

Their mee-
tings to be
public.

Sec. 10. Be it further enacted, That five of the said said town council shall form a quorum for the transaction of business.

May appoint
an Intendant
protom.

Quorum.

Sec. 11. Be it further enacted, That it shall be the duty of said town council to exact from the Treasurer at least four times in each calendar year, a statement of the receipts and of the expenditures of money and of the sums of money due to and from the corporation and to certify the same to be correct if on examination, such statement is found to admit of such certificate, and require a report of other stock & property of said town committed to his charge.

Treasurer to
make report.

Sec. 12. Be it further enacted, That it shall be the duty of the said Intendant to see that the ordinances of the said Council are duly executed, and to call a meeting of the Councilmen when in his opinion the public good may require it, and he shall lay before the council from time to time in writing, such propositions as he may deem advisable for the welfare of the said corporation, and the said town council shall have power to adjourn from time to time.

Duty of the
Intendant.

Sec. 13. Be it further enacted, That the said Intendant shall within five days after his election take an oath or solemn affirmation before any Judge or Justice of the Peace of this Territory. "That he will to the utmost of his power, support, advance and defend the interest, peace and good order of the Town of Marianna and faithfully

Oath of the
Intendant and
Council-men.

and diligently discharge the duties of Intendant of the said town during his continuance in office, and that he will support the constitution of the United States. And he shall within the aforesaid time of five days after the election, convene the council men elect, and administer to each of them an oath or affirmation similar to that taken by himself.

Duty of the
Treasurer.

Sec. 14. *Be it further enacted*, That the Treasurer shall receive all monies due and owing to the said corporation, and he shall keep an accurate account of the same and all money paid out for and on account of said Corporation shall be paid by the Treasurer on an order of the Council attested by the Clerk and countersigned by the Intendant.

Time and
manner of
election of In-
tendant and
Councilmen.

Sec. 15. *Be it further enacted*, That the first election for Intendant and Council-men under this act, shall take place on the first Monday in January 1829, and each succeeding election shall be held on the first Monday of January every year, and the said election shall be held under the inspection and superintendance of three inspectors, who shall be judicious and discreet persons, and the votes shall be given by ballot, but no judge of the election shall be qualified to run for the office of Intendant or Town council-men or shall be eligible to said offices, or either of them at the time he is so judge of the election.

Duty of the
Inspectors of
election.

Sec. 16. *Be it further enacted*, that it shall be the duty of said inspectors, or any two of them to receive the votes, and to cause the name of every voter to be taken down and inserted in a book to be kept for that purpose, and to cause the poll to be held at such place as they or any two of them may deem proper, and to be opened and continued open from nine o'clock in the morning until five in the evening, when the ballots shall be told, and the name of the person having the greatest number of votes for Intendant shall be declared, and the names of the persons having the greatest number of votes for Council men shall be declared, and the name of the said Intendant and Councilmen elect shall be recorded and notice of their election given to each of them.

Sec. 17. *Be it further enacted*, That it shall be the duty of the said Town Council at least two weeks previously to the day appointed for election to appoint the inspectors of election by this act required, and to notify them of such appointment, and the said inspectors shall

Inspectors
now appointed

give public notice within three days thereafter by posting up at the market and three other places, of the time and place of such election.

Sec. 18. Be it further enacted, That if by reason of the refusal, absence or other unavoidable casualty, the Intendant elect shall be prevented from performing the organizing duties by this act required, it shall in such case be the duty of the Intendant in office, to cause a new election to be held by the same inspectors, who shall forthwith give at least one weeks notice of the same, and hold another election for Intendant conformably to this regulation.

If Intendant elect shall be unable to perform his duty.

Sec. 19. Be it further enacted, That Miles Simms, Allen Gattis and Benjamin Holden, be and they are hereby appointed inspectors to superintend the election for Intendant and Councilmen for said town, on the first Monday in January, one thousand eight hundred and twenty-nine, and they or any two of them may do the duties of superintending required by this act, and in the event of the occurrence of any of the casualties contemplated by this act to prevent the organization of the said Town council, they or any two of them are hereby authorized to hold a re-election for Intendant.

Inspectors for the election on the 1st Monday in January 1829.

Sec. 20. Be it further enacted, That the said Intendant and town Council-men, shall have power to fill vacancies in their own body by causing an election to be held in the same manner as is provided for in this act, out of the citizens qualified to fill the same, and that the said Intendant and town Council-men shall in all cases continue their respective functions, until their successors be elected and qualified into office.

Vacancies now filled.

Sec. 21. And be it further enacted, That every white male inhabitant of the age of twenty one years or upwards, who shall have resided three months within the limits above described, and every white male person who shall have resided six months within the County of Jackson, and one month in the Town of Marianna, shall be entitled to vote for Intendant and council-men, for the said corporation.

Qualification of voters.

Passed 28th October, 1828.

PETER ALBA.

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 5th, 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Authorising George Fisher Senior to build a Bridge over the Ocklocknee River at or near his ferry.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That George Fisher Senior be and he is hereby vested with the right and power of building a bridge, and charged with the duties of keeping the same in repair across the Ocklocknee river at or within two hundred yards of the place where the road leading from Tallahassee to Georgia crosses said River, and shall continue in the enjoyment of the same so long as the said Fisher, his heirs or assigns, shall keep the same in good repair, unavoidable accidents excepted, for the safe crossing of such vehicles &c. as travel the road, and shall be allowed to receive the prices of toll allowed by law to be received at the ferries on said river: Provided Nevertheless, that nothing in this act shall be so construed as to authorise said Fisher to obstruct or prevent any person from a free access in crossing the ford of said river, where the road shall lead to or near said bridge.

Sec. 2. *Be it further enacted,* That no person shall have the right to build a Bridge or establish a ferry within one mile of said bridge, for the purpose of gathering toll.

Sec. 3. *Be it further enacted,* That all laws militating against this act, be and the same are hereby repealed.

Passed 7th November, 1828.

PETER ALBA,
President of the Legislative Council

THOMAS MUNROE, Clerk.

Approved, November 10th, 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

Geo. Fisher
Sen. authori-
to build a
bridge across
the Ocklock-
nee river.

Toll

Proviso, that
the ford shall
not be obstruc-
ted.

No bridge or
ferry to be al-
lowed within
one mile.

Repeal

AN ACT

Regulating Judicial Proceedings.

Be it enacted by the governor and Legislative Council of the Territory of Florida, That the Superior and county courts shall be courts of record, and have full power and authority to hear and determine all causes, both civil and criminal, of which they shall severally have jurisdiction according to the laws of the United States and of this Territory, to administer oaths, make rules, pass orders and decrees, and give such judgments as may be necessary to support their authority, to punish for contempts by fine or imprisonment, and not otherwise; the fine in any case, not to exceed one hundred dollars, or the imprisonment thirty days; and shall exercise all the necessary powers appertaining to their jurisdictions respectively according to law.

Power and jurisdiction of the Superior and County Courts.

Sec. 2. Be it further enacted, That a refusal to obey any legal order, mandate or decree, made or given by any Judge of the Superior or county court, either in term, time or in vacation, relative to any of the business of said court, after due notice thereof, shall be considered a contempt, and punished accordingly. Provided, that any thing said or written or published in vacation, to or of any Judge, or of any decision made by a Judge, shall not in any case be construed to be a contempt.

What shall be considered a contempt of Court.

Sec. 3 Be it further enacted, That when any Judge shall not attend on the first day of any term, the court shall stand adjourned until 12 o'clock on the second day, and if said Judge shall not then attend, it shall be the duty of the clerk at that time to continue all causes, and adjourn the court to such time as the Judge may appoint, or to the next regular term by law established.

Failure of Judge to attend court.

Sec. 4 Be it further enacted, That when any person wishes to commence an action in any of said courts, he shall have the right to sue out his process either against the person, or the estate of the defendant, according to the rules prescribed by law; and when the same is intended to be sued out against the person of the defendant, it shall be the duty of the plaintiff, or his attorney to deliver to the clerk of the court in which the suit is to be commenced, a *præcipe* or memorandum, stating the names of the parties, the nature of the action and the amount of the debt or damages for which he sues; which

Process may be sued out against the person or his estate.

Against the person how instituted.

præcipe shall be signed by the plaintiff or his attorney; and it shall be the duty of the clerk, upon the receipt of such *præcipe* or memorandum, to make out therefrom a *writ of capias* or a *summons ad respondendum*, which shall be called the original; and which shall be served by the Marshal, Sheriff or other officer, as the case may be, at least ten days before the first day of the term to which the same is made returnable.

Sec. 5. Be it further enacted, That it shall be the duty of the clerk to deliver to the Marshal, Sheriff or other officer with the original writ, or summons, a copy for each defendant therein named, and the service of the same shall be effected by reading the writ or summons to the defendant, or delivering him a copy thereof, or leaving such copy at his usual place of abode, with some person of the family, above the age of fifteen years, and informing such person of the contents thereof, and no person shall be required to give bail for his, or her appearance to any original writ or summons emanating from a court of law.

Sec. 6. Be it further enacted, That it shall be the duty of the Clerks of said courts to transcribe into their memorandum books any *præcipe* filed with them previous to their issuing the original writ or summons, and to make in said books a similar memorandum of every cause commenced by attachment as aforesaid; which *præcipe* or memorandum shall bear date on the day when the said *præcipe* is received by the clerk, or when the affidavit is filed with him, to obtain a process against the estate of the defendant; and the said dates shall, for all legal purposes, be considered the true time at which said suits were actually brought.

Sec. 7. Be it further enacted, That all process shall run in the name and by the authority of the territory of Florida, and shall bear *teste* in the name of the presiding judge of the court, and be signed by the clerk, and bear date when issued. And when not otherwise provided for by law, all process shall be returnable to the next ensuing term of the court, from which it issued.

Sec. 8. Be it further enacted, That whenever a plaintiff or complainant, who is a non-resident, shall commence a suit in any of the courts of this Territory, it shall be the duty of himself, or his agent, or attorney, previous to suing out the original process, to file, with the clerk of the court in which said suit is to be brought, bond

Copies or summons ad respondendum, when to be served.

A copy to be made for each defendant.

Service.

No bail allowed.

Clerks to transcribe *præcipes* &c

Date thereof.

Process how issued, tested and signed.

Non-resident plaintiff's to enter security for costs.

with approved security in the sum of one hundred dollars, conditioned for the payment of all costs and charges which may be adjudged against him in said suit; and upon a failure to file such bond and security as aforesaid, the attorney bringing or prosecuting said suit, shall be liable for said costs and charges; and if adjudged against said plaintiff, an execution may issue against said attorney for the same.

On failure of
attorney to file.

Sec. 9. Be it further enacted, That when any original process is placed in the hands of the Marshal, Sheriff or other officer for service, and he shall from any cause fail to execute the same, at least ten days before the ensuing term of the court to which the same is returnable, it shall be his duty to return the same "not executed," with the reasons for such failure: and if such reasons be insufficient, such officer shall be liable to a fine, not exceeding fifty dollars, at the discretion of the court, and shall also be liable to the party injured for all costs and damages thereby incurred and sustained; and if any original process shall be sued out within ten days of the then ensuing term of the court, the same shall be made returnable to the term next ensuing after the expiration of the said ten days, and not otherwise.

Process return-
ed "not exec-
uted."

Sec. 10. Be it further enacted, That no suit shall be brought to any of the Superior courts of this territory against any person residing therein, unless the same be instituted in the judicial district and county, in which the defendant resides: Provided, there be a Superior court established by law in the county in which the defendant resides; except in cases brought against two or more defendants residing in different judicial districts, then, and in that case, it shall be lawful for the plaintiff or complainant to commence his action in either district; and he may instruct the clerk to issue an additional original and copies, to be directed to the Marshal of the district in which the other defendants reside; and it shall be the duty of the said Marshal, upon the receipt of said original and copies, (provided his fees are previously paid by the plaintiff,) to serve the same and to return the original with the proper entries thereon to the office whence it issued.

Suit to be
brought in the
County and
District where
the Defendant
resides.

Exception

Sec. 11. Be it further enacted, That no suit shall be brought to any of the county courts of this Territory against any person residing therein, unless the same be instituted in the county in which the defendant resides.

County courts
suits to be
brought in
County where
defendant re-
sides.

Exceptions.

except in cases brought against two or more defendants residing in different counties, then, and in that case, it shall be lawful for the plaintiff to commence his action in either county, and he may instruct the clerk to issue an additional original and copies, to be directed to the sheriff of the county in which the other defendants reside; and it shall be the duty of said sheriff, upon the receipt of said original and copies, (his fees being previously paid by the plaintiff,) to serve the said copies and to return the original with the proper entries thereon to the office whence it issued: Provided, that nothing herein contained shall be construed to prevent any complainant from commencing his suit in an adjoining county in the same district, when there shall be no court of competent jurisdiction organized in the county in which the defendant resides.

Process against two and served on one.

How plaintiff may proceed.

Service on mercantile firm.

Process against the Marshal how served.

Sec. 12. Be it further enacted, That when an original writ or summons, has been sued out against two or more defendants, and returned by the Marshal, Sheriff or other officer served upon one or more of the defendants, and that the other defendants do not reside in said district or county, as the case may be, it shall be lawful for the plaintiff, at his option, to proceed to judgement against those upon whom, process has been served, or to obtain from the court time to perfect service, and to order additional originals and copies to be directed to the Marshals or Sheriffs of the districts or counties in which the other defendants reside, to be served and returned as is directed in this act.

Sec. 13. Be it further enacted, That when any original process is sued out against several persons composing a mercantile or other firm, the service of said process on any one member of said firm, shall be as valid as if served upon each individual member thereof; and the plaintiff may, after service upon any one member as aforesaid, proceed to judgment and execution against them all.

Sec. 14. Be it further enacted, That when any process returnable to a Superior court, shall issue against the Marshal of said court, the same shall be directed to, and executed by, the sheriff of the county in which the said court shall be held.

Sec. 15. Be it further enacted, That when any Marshal or Sheriff of any District, or County in this Territory, shall die, his executors, administrators or other rep-

representatives shall hand over to his successors in office, taking a receipt for the same, all the papers in the possession of, and belonging to such decedant, as Marshal or Sheriff. And if in any case, a successor should not be qualified in due time to serve or execute the process of the Court, the deputy of such deceased Marshal or Sheriff, if there should be one, or some other person, shall be employed by an order from the Judge of the Superior or County Court, to receive from the representatives of the decedant and execute all process, which remained in his possession at the time of his decease.

In case of death
of the Marshal
or Sheriff.

Sec. 16. Be it further enacted, That the Marshals of each district, and the Sheriff's of each county, shall at the expiration of their respective terms of office, turn over to their successors, by schedule, (taking their receipts for the same) all such writs and processes as shall remain in their hands unexecuted and their successors in office shall duly execute and return the same.—And in case any Marshal or Sheriff shall neglect or refuse to turn over such process in manner aforesaid, every such Marshal or Sheriff so neglecting or refusing, and their securities, shall be liable to make such satisfaction, by damage and costs, to the party aggrieved, as he, she or they shall sustain by reason of such neglect or refusal ; and every Marshal or Sheriff, at the expiration of his said appointment, shall also deliver up to his successor the bodies of all persons which he holds in confinement by legal process, with the precepts, warrants or causes of such confinement ; and the succeeding Marshal or Sheriff shall be empowered, and is hereby required, to sell and carry into effect any levy made by his predecessor in office, in like manner as the former Marshal or Sheriff could have done, had he continued therein ; and shall make titles to the purchasers for all the property sold under execution or other process, and not conveyed by his predecessor.

Duty of
Marshals and
Sheriffs on ex-
piration of
their office.

.Penalty for re-
fusal or ne-
glect.

Successor to
carry into ef-
fect all levies
&c.

Sec. 17. Be it further enacted, That if from any cause the Marshal or Sheriff of a Superior or County court shall fail to attend any term of the same, either in person or by deputy, the said court shall direct the coroner of the county to attend and perform the duties of the Marshal or Sheriff of said court ; and the said coroner shall be entitled to receive for his services five dollars for each day he shall attend during the continuance of the term, to be paid, by the Marshal or Sheriff failing to attend as

Marshal or
Sheriff failing
to attend court.

Coroner to act
and how paid.

aforesaid, and which may be recovered in any court having jurisdiction of the same; and shall, moreover, also be entitled to the fees allowed by law for any services performed by him, while acting as aforesaid ; and the acts of the said coroner, done as aforesaid, shall be as legal, and valid, as if the same had been performed by the said Marshal or Sheriff in person, or by deputy duly appointed.

Sec. 18. Be it further enacted, That the Marshals, Sheriffs and other officers in this Territory, shall in all cases, note upon process issuing from the offices of the clerks of the superior and county courts, the time when the same came to hand, the time when it was executed and sign the same, and on failure thereof, shall be subject to a fine not exceeding ten dollars.

Sec. 19. Be it further enacted, That it shall be the duty of the said superior and county courts at each term thereof, after the other business of the term shall have been disposed of, to call over all the causes returnable to that term and standing upon the appearance docket, and to make such orders and entries therein as shall be found necessary in relation thereto.

Sec. 20. Be it further enacted, That in all actions brought to any of the Superior or County courts of this Territory, whether the same be commenced by original process against the person, or against the estate of the defendant, it shall be the duty of the plaintiff or his attorney, to file with the clerk his declaration on or before the first day of the term to which his action is made returnable; and it shall be the duty of the defendant or his attorney, to plead, answer or demur thereto, previous to the calling of the appearance docket at the same term; if a demurrer be filed to said plaintiff's declaration, it shall be the duty of the defendant or his attorney to give notice thereof to the plaintiff or his attorney, in time to take issue thereon before the calling of the appearance docket ; and the said demurrer shall be argued when the cause is called up on the appearance docket as aforesaid, and decided at the same term, unless the court shall think proper to continue it until the ensuing term, and all other issues shall be made up by the time the case is called in its order for trial.

Sec. 21. Be it further enacted, That in all cases standing upon the appearance docket at the calling of the same, to which there is no plea, answer or demurrer,

Officers serving process to note time &c.

Appearance docket.

Declaration when to be filed.

Time for pleading.

If demurrer, notice to be given.

filed, the court shall, upon motion of the plaintiff or his attorney, give a judgment by default, and may immediately refer the same to a jury to assess the damages; but if the said action be found upon any liquidated demand not requiring the introduction of a witness or witnesses to establish the same, the court may direct the clerk to assess the damages and to issue execution accordingly.

Judgment by default.

Sec. 22. *Be it further enacted,* That when the name of any attorney of the court is placed upon the appearance docket as counsel for the defendant, it shall be considered so far equivalent to filing the general issue, as to prevent a judgment by default, though no plea or answer be in fact filed in said cause.

Appearance
by attorney

Sec. 23. *Be it further enacted,* That no plea in abatement or other dilatory plea or any plea denying the signature of a defendant to any bond, note or other instrument of writing shall be received by either of said courts, unless the same be put in on oath, and filed before the cause is called upon the appearance docket.

Pleas in abat-
ement to be on
oath.

Sec. 24. *Be it further enacted,* That all promissory notes and other instruments of writing not under seal, shall have the same force and effect as bonds and instruments under seal; and it shall not be necessary for the plaintiff to prove the execution of any bond, note or other instrument of writing, purporting to have been signed by the defendant, nor the consideration for which the same was given unless the same shall be denied by plea put in and filed as aforesaid: Provided, that nothing in this act shall prevent an executor or administrator from denying the execution aforesaid, or from pleading a want or failure of consideration, if he shall give in writing reasonable notice of such intention to the plaintiff, his agent or attorney.

Force and ef-
fect of promis-
sory notes &c.

Sec. 25. *Be it further enacted,* That no declaration or other pleading shall be abated or quashed for any defect in matter of form, nor for any clerical mistake or omission not affecting the real merits of the cause; but the same, upon motion, may be amended without delay or cost, if there be a good and sufficient cause of action, or of defence substantially set forth in the declaration, or other pleadings.

No pleading to
be set aside for
defect of form

Sec. 26. *Be it further enacted,* That in all cases the defendant or defendants may plead as many matters of law or fact, as he, she or they may deem necessary to

Defendant
may plead
various
pleas

his, her or their defence ; and it shall be no objection to any plea that it is contradictory to any other plea filed by the same party in the same cause.

Demurrer, effect of &c.

Sec. 27. *Be it further enacted,* That no demurrer, either at law or in equity, shall be considered as an admission of the facts set forth in the pleadings demurred to, so as to bar the person demurring from any substantial claim or defence which he might have urged if said demurrer had not been filed.

Suits when abated.

How to proceed after death of party.

Sec. 28. *Be it further enacted,* That no suit in any of said courts shall abate by the death of either party, where the cause of action would in any case survive to the executor or administrator ; but the same shall proceed as if such party had not died, under the following regulations and restrictions : when a plaintiff shall die, the executor or administrator of such plaintiff shall within three months after probate of the will or taking out letters of administration give notice to the defendants by suing out a scire facias, to be issued by the clerk and executed in the manner hereinbefore pointed out for the service of process ; and in cases where the defendant shall die, it shall be lawful for the plaintiff to sue out a scire facias in manner aforesaid, immediately after the expiration of six months, requiring such executor or administrator to appear and answer to the said cause.

One Copartner dying cause to proceed.

What actions abate by death of parties.

Sec. 29. *Be it further enacted,* That when any copartner of a mercantile or other firm shall die during the pendency of any suit, either in favour of or against said firm, the same shall be suggested of record, and the cause shall proceed in the name of the survivor or survivors.

Female plaintiff marrying pending suit.

Infants how to sue.

Proviso.

Sec. 30. *Be it further enacted,* That hereafter, all actions for personal injuries, shall die with the person, to wit, assault and batteries, slander, false imprisonment and malicious prosecutions ; all other actions shall and may be maintained in the name of the representatives of the deceased.

Sec. 31. *Be it further enacted,* That if any female plaintiff shall marry pending a suit, her marriage shall be noticed on the record, and her husband made a party thereto, and the cause shall proceed according to law.

Sec. 32. *Be it further enacted,* That infants may sue by their next friends in all cases whatsoever, and idiots and lunatics by their guardians : Provided, that before any suit be brought by the next friend, it shall be his or

her duty to file bond and security with the clerk, conditioned to appropriate the amount which may be recovered in said suit, (after the expenses of recovering the same are paid) to the use and benefit of said infant.

Sec. 33. Be it further enacted, That it shall not be necessary for any person who sues upon any bond, note, covenant, deed, bill of exchange, or other writing, whereby money is promised & secured to be paid, to prove the execution of such bond, note covenant, deed, bill of exchange, or other writing unless the same shall be denied by the defendant under oath.

Sec. 34. Be it further enacted, That the assignment or endorsement of any of the forementioned instruments of writing shall vest the assignee or endorsee thereof with the same rights, powers and capacities as might have been possessed by the assignor or endorser. And the assignee or endorsee may bring suit in his own name, nor shall it be necessary for the assignee or endorsee of any instrument assignable by law to set forth in the declaration the consideration, upon which such assignment or endorsement was made, nor to prove such consideration, unless the same shall be impeached by the defendant under oath.

Sec. 35. Be it further enacted, That all bonds, notes, bills of exchange, covenants and accounts, upon which suit may be brought, or a copy thereof, shall be filed with the declaration.

Sec. 36. Be it further enacted, That a scrawl affixed as a seal to any instrument shall be as effectual as a seal.

Sec. 37. Be it further enacted, That in all suits cognizable in the Superior Courts, when either of the parties shall fear that he will not receive a fair trial, in the court where it is depending, on account of the judge of the Court where the suit is depending being interested or prejudiced, or that the adverse party has an undue influence over the minds of the inhabitants of the County, where the suit is depending, or that the petitioner is so odious that he cannot expect a fair trial, the said party may petition the judge of the Superior Court for a change of the *venue* of such cause, distinctly setting forth the cause of such fear, and supported by his affidavit or affirmation, previous notice of such application, and of the time and place of hearing the same, being given to the adverse party, or his attorney, on which petition the

Execution of
deed note &c
when to be
proved.

Effect of as-
signments.

When neces-
sary to prove
consideration
of.

Bonds &c or
copy to be filed

Scrawl,

Change of Ve-
nue where
allowed.

Petition and
affidavit of
cause..

Duty of Clerk
when suit is
pending.

Proviso.

Clerk to issue
writs of sub-
poena.

Form thereof.

Defaulting
witness, reme-
dy against.

Judge may under his hand award a change of *venue*, and order the clerk of the Court where the suit is depending to send forward the papers in the suit, by some fit person to the Superior Court of the next convenient county or district, as the judge may direct, and the clerk of such court shall receive them, and give a receipt therefor, and docket the suit in order, and the court shall have full authority and jurisdiction to award subpœnas for witnesses, and to enforce their attendance; to grant rules and commissions for the taking of depositions; to hear and determine the said controversy, to award execution, and to do every thing relating thereto, which the Court, from which the suit was removed might have done:— Provided, that no change of *venue* shall take place, so as to have the cause sent to either of the Counties where the parties or either of them reside, nor shall there be more than one removal of the same cause.

Sec. 33. *Be it further enacted*, That when the attendance of any person shall be required as a witness in any of the courts aforesaid in any cause depending therein, it shall be the duty of the clerk of the said courts respectively on application, to issue writs of *subpœna*, directed to the persons whose attendance shall be required, when such persons reside within the county in which such cause may be depending; which writ of *subpœna* shall contain the names of the parties in the cause and state at whose instance it is issued, and shall be served on such witness at least three days before the court to which it shall be returnable; which writ shall be served by the marshal, sheriff or other officer, as the case may be.

Sec. 33. *Be it further enacted*, That when it shall appear in manner aforesaid, that a witness in any cause has been duly summoned, and such witness shall fail to appear, it shall be the duty of the court, on motion, to order an attachment against such defaulting witness, returnable at such time as the Court may direct; and upon the return of such attachment, the said Court may fine such witness in any sum not exceeding one hundred dollars, unless he or she shall make a sufficient excuse for such non-attendance, to be adjudged of by the court; and the said witness shall also be subject to the action of the person at whose suit he or she shall have been summoned for any damage which he, she or they may have sustained by reason of such non-attendance.

Sec. 40. Be it further enacted, That when a subpoena shall be served on any witness in conformity to this act, it shall be the duty of the person so summoned to attend from day to day, until the cause in which such witness has been summoned, is tried or otherwise disposed of, unless he shall sooner be discharged from further attendance.

Duty of witness in attending court.

Sec. 41. Be it further enacted, That on the last day of the attendance of any witness in each term, it shall be lawful for such witness to exhibit his account on oath against the person or persons at whose instance he or she may have been summoned, and the clerk of the court shall examine and sign the same, and administer the said oath, and such account so signed, shall have the force and effect of an execution, and may be levied upon the goods and chattels of the party in like manner as in cases of other executions: Provided, nevertheless, that such witness shall have the right, at his option, to defer making out his account, until the suit in which he shall be summoned as aforesaid is determined and have the same taxed in the bill of cost; and Provided, also, that where any witness shall charge and levy more than is really due, such witness shall forfeit and pay to the party injured, four times the amount so unjustly claimed.

Pay of a witness.

Clerk shall examine and sign account.

Effect thereof.

Proviso.

Sec. 42. Be it further enacted, That when any party shall have paid the accounts of his, her or their witnesses, for attendance, previous to the determination of any suit, he may, if he succeed in said suit, have the same taxed in the bill of costs against the unsuccessful party: Provided, that no party cast in any suit, shall be taxed for more than the costs of two witnesses to any material point in the cause, and the unsuccessful party may require the court to certify the number of witnesses sworn to each material point in the cause at the instance of his adversary.

Amount paid witness by successful party to be taxed in bill of cost.

Proviso.

Sec. 43. Be it further enacted, That no officer, for any civil case, shall arrest any minister of religion licensed according to the rules of his sect, while such minister shall be publicly preaching, or performing religious worship in any church, meeting house or other place of religious worship; and every officer, so offending and being thereof convicted, shall be fined and imprisoned at the discretion of the court, the fine in no case to exceed one hundred dollars, or the imprisonment ten days, and

Ministers privileged from arrest while performing service.

shall, moreover, be liable to the action of the party arrested.

**Civil process
not to be ex-
ecuted on
Sunday.**

Sec. 44. Be it further enacted, That no person or persons, upon the first day of the week called Sunday, shall serve or execute, or cause to be served or executed, any writ, process or warrant, order, judgment or decree, except in criminal cases, or for a breach of the peace; but the service of every such process, order, warrant, judgment or decree, shall be void to all intents and purposes whatsoever; and the person or persons so serving or executing the same, shall be liable to the suit of the party aggrieved, and to answer damages to him for so doing thereof, as if he or they had done the same without any writ, process, warrant, order, judgment or decree; Provided, that if information shall be made by the oaths of two respectable persons to any justice of the peace or magistrate of any corporate town, that they have good reason to believe that any person liable to have any such process, warrant, order, judgment or decree served upon him, intends to withdraw himself and escape from this territory under cover of protection of the said first day of the week called Sunday, in that case, it shall be lawful for any officer duly authorised, being furnished with a certificate of such information upon oath as aforesaid, under the hand of the justice of the peace or magistrate as aforesaid, to serve or execute such process, warrant, order, judgment or decree on the said first day of the week called Sunday, which shall be as valid and effectually done to all legal intents and purposes, as if the same had been done on any other day of the week.

**Set off, how
and when to be
pleaded.**

Sec. 45. Be it further enacted, That in all actions to which the defendant or defendants may intend to plead a set off, he she or they shall at the time of filing the pica, file therewith a true copy or copies of the subject matter of such set off, and upon the trial of the cause, in case the jury shall find a balance for the defendant or defendants, such defendant or defendants may claim a judgment for the same, and take out execution accordingly.

**Subjects of set
off**

Sec. 46. Be it further enacted, That all debts or demands mutually existing between the parties at the commencement of the action, whether the same be liquidated or not, shall be proper subjects of set off and may be pleaded accordingly.

Sec. 47. Be it further enacted, That all cases brought either to the Superior or County Courts of this Territory, shall stand for trial at the term next succeeding the one to which they are made returnable, provided the processes therein have been duly executed, and not before, except in such cases as judgments by default are herein authorised to be taken.

Time of trial causes.

Sec. 48. Be it further enacted, That at the trial of all causes brought to the superior or county courts, either party shall have the right to challenge peremptorily four jurors, and as many more as he can shew good cause for.

Peremptory challenges.

Sec. 49. Be it further enacted, That the courts may direct the summoning of jurors *de mediatate linguae* both in civil and criminal cases, and appoint interpreters when necessary who shall be sworn to interpret truly.

Juries, de mediatate linguae

Sec. 50. Be it further enacted, That the court may in its discretion give leave to a party to amend his declaration or other pleading in a cause at any time before the case is submitted to the jury: Provided, that the party asking the privilege shall be required to make his or her amendment instanter; and provided also, that if the proposed amendment be in matter of substance and not of form, the other party shall have the right to claim a continuance.

Declaration, &c. when amendable.

Proviso.

Sec. 51. Be it further enacted, That all judgments shall have interest, from the rendition thereof until paid, at the rate of six per cent per annum.

Interests on judgments.

Sec. 52. Be it further enacted, That no motion for a new trial, or in arrest of judgment, shall be made unless the party intending to make the same shall file his reasons with the clerk in writing, and cause his motion to be placed upon the motion docket, within four days after the verdict shall have been rendered, and during the same term, nor shall any motion for a new trial, or in arrest of judgment standing over from one term to another, operate as a supersedeas, unless so ordered by the court.

Motions for new trial &c.

When a supersedeas.

Sec. 53. Be it further enacted, That in no case shall a writ of capias ad satisfaciendum be issued by the clerk upon judgment of the court, nor shall the body of any defendant be subject to arrest or confinement for the payment of money, except it be for fines imposed by lawful authority.

No Capi. Sa. allowed in any civil cause.

Judgment after verdict when to be stayed or reversed.

Effect of an arrest of judgment.

Writs of error and certiorari.

Assignment of errors.

When to operate as a supersedeas.

Money made on executions to be paid to the attorney.

Sec. 54. Be it further enacted, That no judgment, after the verdict of a jury, or an award of arbitrators, shall be stayed or reversed for any defect or default in the original writ, or for a variance between the writ and declaration, or for any mispleading, insufficient pleading, or misjoining of the issue, or for any faulty count in a declaration, where the same declaration contains one count or more which is or are good, or for any informality in entering up the judgment by the clerk; and when a judgment is arrested, the plaintiff shall not be compelled to bring a new suit, provided the first writ or summons shall be sufficient, but the court may order new pleadings to commence, where the error causing the arrest began, and the party committing it shall be liable to the costs occasioned thereby.

Sec. 55. Be it further enacted, That all cases brought to a superior court upon writs of error, or to a superior or county court by certiorari, shall be tried upon the record sent up from the court below; and in all such cases it shall be the duty of the plaintiff in error or certiorari to assign his errors, and file them with the clerk of the court on or before the first day of the term to which the case is made returnable; and every case brought up as aforesaid, shall stand for trial at the term to which it is returned.

Sec. 56. Be it further enacted, That no appeal nor writ of error, nor certiorari shall operate as a supersedeas until the costs of the first trial are paid, and the appellant, or plaintiff in error or certiorari shall have given bond and security for the eventual costs and condemnation money, but in all cases where the appellant shall succeed on the trial of his appeal, or the plaintiff in error or certiorari shall succeed in his cause, he shall recover back the costs paid as aforesaid, to be taxed in the bill with the other costs of the case.

Sec. 57. Be it further enacted, That all monies made upon executions in this territory, shall be paid to the attorney of the party, in whose favour execution shall have issued. And the receipt of said attorney shall fully, and altogether release and acquit the officer so paying over the money as aforesaid, from all claims or demands whatsoever which may be made upon him in right or by virtue of said execution. And in any case when the name of more than one attorney shall appear upon the records of the court, the money shall be paid to the at-

orney, who originally commenced the suit, or to him who made the original defense.

Sec. 58. Be it further enacted, That whenever security is required by this act to be taken, and the person taking the same is not acquainted with the situation of the security tendered, it shall be his duty to require him or them to justify on oath, and such justification shall exonerate the person taking the security from all liability for any insufficiency in security.

Sec. 59. Be it further enacted, That it shall be the duty of the clerks of the several courts of record in this territory respectively, to keep all papers filed in their respective offices with the utmost care and security, arranged in the appropriate files, (endorsing upon each the time when the same was filed) and all the pleadings in each cause shall be attached together with tape or ribbon, and kept distinct from the other papers in the cause; and papers of different kinds shall not be mixed and folded up loosely together, but each description of papers shall be kept on file with other papers of the same class, and no clerk of any of the said courts shall permit any attorney or other person to take papers once filed out of the office of said clerk without the leave of the court.

Sec. 60. Be it further enacted, That the clerks of the several courts of this territory shall keep regular and fair minutes of all the proceedings of said courts, which shall be signed by the judge before the adjournment of the term. The said clerks shall also keep a common law appearance docket, upon which shall be entered all the causes brought to each term, and a common law trial docket, upon which shall be entered, all the causes standing over for trial at each term, together with the names of the attorneys employed in each cause, and the entries made by the court upon the appearance docket; and a motion docket upon which shall be entered, by the attorney, all motions which are intended to be submitted to the court, and which dockets shall be called over at each term in their regular order.

Sec. 61. Be it further enacted, That it shall also be the duty of said clerks to keep a sheriff report docket, upon which shall be entered all cases of illegality, and claims to property returned to court by the marshal, sheriff or other officer; and an execution docket, upon which shall be entered all executions issued by said clerk,

Securities
Vicentojuli.

DutyofClerks
in keeping pa-
pers.

By w they may
be withdrawn.

Clerks of
courts to keep
minutes of pro-
ceedings.

And docl -es.

Sheriffs report
docket.

Equity, Execu-
tion and other
dockets.

and the returns made thereon; also appeal and certiorari dockets, upon which shall be placed all appeals and certiorari returnable to said courts respectively; and an equity docket, upon which shall be entered all causes brought to said courts while sitting as courts of chancery, and a subpoena docket, and a docket for criminal cases; all of which dockets shall be regularly kept, and shall be in court during every term thereof, while in session.

Marshal, Clerk or Sheriff, guilty of malpractice in office.

Sec. 20. *Be it further enacted,* That if any marshal or clerk of a superior, or sheriff or clerk of a county court, or their deputies, shall be guilty of extortion or other mal practice in the execution of his office, upon complaint made on oath to the attorney prosecuting for the territory, it shall be the duty of such attorney to exhibit to the grand jury a bill of indictment against the person so offending, and if the said bill of indictment be found true, and upon the traverse the person so indicted be found guilty, it shall be the duty of the court to impose a fine upon him in treble the amount of his extortion, and remove said sheriff, or clerk from office, and his commission shall from thenceforth be null and void.

Defendant in action of Trespass, may disclaim title &c.

Sec. 63. *Be it further enacted,* That in all actions of *quare clausum fregit* hereafter to be brought, where the defendant or defendants shall disclaim, in his or her plea, any title or claim to the land in which the trespass is supposed to be done by the declaration, and the trespass be by negligence, or involuntary, the defendant or defendants shall be admitted to plead a disclaimer, and that the trespass was by negligence or involuntary, and a tender or other offer of sufficient amends, for such trespass, before the action brought, whereupon or upon some of them the plaintiff or plaintiff's shall be compelled to join issue, and if the said issue be found for the defendant or defendants, the plaintiff or plaintiff's shall be non-suited, and no suit shall ever be maintained for the same.

Removal of defendants after suit commenced.

Sec. 64. *Be it further enacted,* That in all and every species of actions commenced in any of the courts of the Territory, having jurisdiction thereof, if the defendant or defendants shall remove out of the county where the action was commenced, and the same shall be certified by the sheriff or other officer to whom the process was directed, it shall be lawful to issue an alias writ or summons, and every other legal process necessary to enforce the appearance of such defendant or defendants, directed

to the sheriff or other proper officer of any county in this Territory.

Sec. 65. Be it further enacted, That hereafter, every charge of incest, fornication and adultery, made by any citizen of this Territory against one of the female sex, shall be placed upon the same footing as other charges of a criminal nature, for which an action will lie according to the principles of the common law; and that all and every person or persons, for whom an action would lie, for the speaking of scandalous words, may have and maintain an action of slander for the speaking of words containing a charge of the commission of the offences aforesaid, or any of them, subject to the like principles, rules, and regulations as are observed in other actions of slanderous words.

Slander, words
actionable
per se.

Sec. 66. Be it further enacted, That if in an action at law, the plaintiff omit to take judgment against a defendant or defendants, for failing to plead, when by the foregoing provisions he might so take judgment, the defendant or defendants may at any time before a writ of enquiry is awarded and final judgment given, plead any pleas, the filing of which is not by this act limited to the first term, but where such plea or pleas are filed, the plaintiff may waive his right of trial at that term, and have a general continuance of the cause.

Plaintiff fails
to take judg-
ment by de-
fault.

Sec. 67. Be it further enacted, That all powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever, within this territory, before action brought, shall be and are hereby declared to be absolutely null and void.

Defendant
may plead to
subsequent
term.

Sec. 68. Be it further enacted, That if any court refuse to sign a bill of exceptions, when the same is tendered to them for that purpose, it shall be lawful for three persons to sign the same, in the presence of the said judge, and also that the same was presented to the judge, and he refused to sign it, which bill shall be as valid, and have the same force, as though it were signed by the judge of said court; and the court shall permit the same to be filed, and become a part of the record.—And if the Judge refuses to let the same be filed as aforesaid, the court of appeals may, when such cause is brought before them, by writ of error or appeal, upon affidavit of such refusal, admit such bill of exceptions as a part of the record.

Powers of at-
torney to con-
fess judgment
&c.

Bill of excep-
tions, the
court refuse
sign it.

Judgment on bonds.

Non-suit.

Costs.

Who shall not be a witness.

Sec. 69. Be it further enacted, That in all actions which shall be brought upon any bond or bonds, for payment of money, wherein the plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and interest due thereon, and the other costs of suit, and execution shall issue thereon accordingly.

Sec. 70. Be it further enacted, That every person desirous of suffering a non-suit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar.

Sec. 71. Be it further enacted, That in all cases the party recovering the judgment shall recover also, all his legal costs and charges, and shall have execution for the same, provided this section shall not be construed to relate to executors or administrators in cases wherein by law they are not liable to costs of suit.

Sec. 72. Be it further enacted, That no person being convicted of perjury, although he be pardoned or punished for the same, shall be a witness in any suit, bill, action, or indictment in any of the Courts of this Territory.

Passed 21st November, 1828.

PETER ALBA.

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 23rd 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Regulating the mode of suing out of writs of error and prosecuting appeals in the court of Appeals of the Territory of Florida.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That if a party in either of the Superior Courts of this Territory shall feel aggrieved by a final judgment, sentence or decree made or pronounced by any or either of said courts, it shall and may be lawful for such party at the time when such judgment, sentence or decree is rendered or pronounced, or within

Appeal from the Superior court.

ten days days thereafter to obtain in court if the appeal be made in term time, or in the clerks office, if it be made in vacation his, her or their appeal to the court of appeals authorised and enacted and created by the act of Congress, entitled "an act to amend an act" entitled "an act for the establishment of the Territorial" Government of Florida, and for other purposes, and an appeal duly obtained, shall in all cases operate as a supersedesas.

Sec. 2. Be it further enacted, That it shall be the duty of the said Superior Courts to require of the party appealing, if plaintiff, a bond with one or more securities in a sum sufficient to cover all the costs which have accrued or may accrue; and if defendant, a bond with one or more sureties in a sum sufficient to cover the amount for which judgment has been given, a decree being rendered or a sentence pronounced together with all costs, conditioned, that the appellant shall pay the cost if plaintiff or if defendant, the debt damages or condemnation, and costs in case the judgment sentence or decree of the Superior Court shall be confined by the said court of appeals.

Sec. 3. Be it further enacted, That if the said appeal be applied for in term time the application shall be made in open court, and it shall be so stated by the clerk of said Superior Court, upon the record, and the appeal bond shall be approved of by the judge; but if the appeal be applied for in vacation, the said appeal bond shall be approved of by the clerk and at least twenty five days notice of such appeal shall be given to the appellee before the term of the said court of appeals at which said appeal is to be tried.

Sec. 4. Be it further enacted, That it shall be the duty of the party appellant to demand from the clerk a true copy of all proceedings in such cause in the said Superior Court, and to file with the clerk of the court of Appeals, on or before the first day of the next succeeding term thereof unless the said next succeeding term shall commence within thirty days after the obtaining of said appeal, and then the said appeal shall be entered as soon after the first day of the next succeeding term thereafter of said Court of Appeals, as will admit of twenty days notice thereof being given, and in either case, if the said party appellant fail to file the proceedings as aforesaid, it shall and may be lawful for the adverse party on producing a certificate from the clerk of the court below,

Party appealing to give bond.

Condition

Appeal bond to be approved by the Judge Clerk.

Appellant to demand copy of proceedings and to file the same in the court of appeals.

Certificate on appeal.

that an appeal has been obtained, and a bond given as aforesaid, to move the said court of Appeals that the said appeal be annulled, and for the said court of appeals thereupon, unless satisfactory cause be immediately shewn for such default, to order and adjudge that the same be annulled and made entirely void, and upon the receipts of the said order and judgment, certified by the clerk of the said court of Appeals, the said clerk of the court below shall proceed to issue execution as well for the costs and damages which may have accrued in said court of Appeals, as for the debt or damages or condemnation, and costs for which a judgment, sentence or decree was originally pronounced.

Sec. 5. Be it further enacted, That when an appeal shall have been duly filed with the clerk of the Court of Appeals in manner aforesaid, it shall be the duty of the Judges of the said court to examine the record to reverse or affirm the judgment, sentence or decree of the Court below, to award a new trial in the Court below, or to give such judgment, sentence or decree as the Court below ought to have given, or as to them may appear according to law.

Sec. 6 Be it further enacted, That the said court of Appeals may upon the payment of the costs in the court of Appeals, order the record of the judgment, sentence or decree appealed from, with their decision and determination thereon, in writing duly certified, to be remitted to the said Superior Court, and the said decision and determination shall be duly carried into execution by the officers of said Superior Courts or the said Court of appeals may itself award execution to carry into effect its decision and determination.

Sec. 7. Be it further enacted, That all writs of error in the final judgment or decision of any of the Superior Courts of this Territory, shall be tested in the name of the presiding judge of said court of appeals, and shall issue on demand as a matter of right from the office of the clerk of the said court of Appeals, but no writ of error shall operate as a supersedeas unless by a special order of said Court, or some judge thereof, made upon inspecting a copy of the record and the plaintiff in error by himself and a responsible person in his behalf, entering in the clerks office of either the court of Appeals, or the Superior Court into a bond in double the sum recovered in the court below, or double the amount of the costs if

Duty of the
Court of Ap-
peals in exam-
ining record &c.

Court of Ap-
peals may re-
mit the case
below.

Or award ex-
ecution.

Writs of error,
how issued and
tested.

When the
same shall op-
erate as a su-
persedeas.

the plaintiff below be the plaintiff in error, also with one or more sufficient sureties to be approved of by the judge or clerk of said court, conditioned for the due prosecution of the suit in error and in case of the affirmance of the judgment, to pay the defendant in error the condemnation and costs, when such order is made and security given as aforesaid, the said clerk shall endorse on such writ of error that it shall be a supersedeas and the said writ and an endorsement shall be obeyed as such, suspending all further proceeding in relation to said judgment, in and by the officers of the said Superior Court.

Sec. 8. *Be it further enacted,* That the plaintiff in error shall file in the said court of Appeals his assignment of errors within three days after the return of the writ. If this be omitted, except for good cause thereon, the said writ of error shall on motion of the defendant in error be non prossed, unless the said court shall allow further time.

Sec. 9. *Be it further enacted,* That the said clerk of the court of Appeals shall at the time of issuing the said writ of error, also issue to the defendant in error a scire facias to hear errors which shall be made returnable with the said writ of error, and no judgment shall be rendered by the said court of Appeals, unless it shall appear by the return of the proper officer upon the said scire facias, that the same was served on the defendant in error or if said defendant be a non resident, or be not in the Territory, then upon his legally authorised agent or his attorney in the court below, at least twenty five days previous to the first day of the term of the said court of Appeals.

Sec. 10. *Be it further enacted,* That all writs of error on judgments in civil actions shall be sued out and taken within two years from the date of said judgments: Provided, that where any infant, femme covert or person non compos mentis shall be a party in any judgment in a civil action, two years shall be allowed to such infant, femme covert or person non compos mentis after the respective disabilities are removed in which to sue out his, her or their writ of error on any judgment as aforesaid.

Sec. 11. *Be it further enacted,* That the said court of Appeals shall have power to issue writs of *mandamus*, *quo warranto*, *prohibition*, *audita querela*, *habeas corpus* and *procedendo*, and shall possess and exercise a general superintending control over the Superior courts

Assignment
of errors to be
filed.

Clerk to issue
writs scirefa-
cias

Service.

Limitation of
writs of error.

Proviso.

Powers of the
Court of ap-
peals.

and the official acts of the officers of the Superior Courts and of the sheriffs of the respective counties in this Territory, in serving process and notices, shall have the same authenticity in the court of appeals as in their own courts respectively.

To make rules
of practice, for
the Superior
Courts.

Sec. 12. Be it further enacted, That the said court of appeals shall have power, and it shall be its duty to make all necessary rules for the regulation of the practice of the Superior and County Courts, as well as for the said court of appeals, which said rules so made, shall be submitted to the Legislative Council at the session thereof next after the making of such rules, and the said rules if approved of by the Legislative Council, shall after such approval, have the force effect and authority of laws.

Passed 6th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 12th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT.

Relating to Crimes and Misdemeanors.

Crime or mis-
demeanor.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That a Crime or Misdemeanor shall be deemed to consist in a violation of a public law, in the commission of which there shall be an union or joint operation of act and intention, or criminal negligence, the intention being manifested by the circumstances connected, with the perpetration of the offence, and the sound mind and discretion of the person accused.

Sound mind.

Sec. 2. Be it further enacted, That a person shall be considered of sound mind, who is neither an idiot, a lunatic or affected by insanity, or who hath arrived to the age of fourteen years, or before that age, if such person know the distinction between good and evil.

Idiots, lunatics
&c. incapable
of crime.

Sec. 3. Be it further enacted, That neither an idiot nor a child under the age of nine years shall be found guilty of any crime with which he or she may be charged, nor shall a lunatic or person insane without lucid inter-

vals be found guilty, if the act charged as criminal shall have been committed in the condition of such such lunacy or insanity.

Sec. 4. *Be it further enacted*, That any person counsellng, advising or encouraging an infant under the age of nine years, lunatic or idiot to commit an offence, shall be prosecuted for such offence when committed as principal, and if found guilty suffer the same punishment as if he or she had been the perpetrator.

Sec. 5. *Be it further enacted*, That a *feme covert* or married woman acting under the threats, command or coercion of her husband shall not be found guilty of any crime or misdemeanor not punished by death, but the husband shall be prosecuted as principal and receive the same punishment which otherwise would have been inflicted on the wife, if she had been found guilty: Provided, it shall appear from all the facts and circumstances of the case, that violent threats, commands and coercion were used.

Sec. 6. *Be it further enacted*, That drunkenness shall not be an excuse for any crime or misdemeanor, unless such drunkenness was occasioned by the fraud, artifice or contrivance of other person or persons for the purpose of having a crime perpetrated, and then the person or persons so causing such drunkenness for such malignant purpose shall be considered a principal or principals, and suffer the same punishment as would have been inflicted on the person or persons committing the offence, if he, she or they had been possessed of sound reason and discretion.

Sec. 7. *Be it further enacted*, That no person shall be found guilty of any crime or misdemeanor committed by misfortune or accident, and where it satisfactorily appears, that there was no evil design or intention, or culpable neglect, and no person committing a crime or misdemeanor under threats or menaces, which sufficiently shew that his or her life or member was in danger, or that he or she had reasonable cause to believe, and did actually believe, that his or her life or member was in danger, shall be found guilty, and such threats and menaces being proved and established, the person or persons compelling by said threats and menaces, the commission of the offence shall be considered a principal or principals, and suffer the same punishment as if he, she or they had perpetrated the offence.

Advising infant to commit a crime.

Feme covert.
acting under
the coercion of
husband..

Drunkenness.

Misfortune or
accident.

Threats or
menaces.

Slave acting
under coercion

Owner to be
punished.

Accessory.

Exciting an
insurrection of
slaves.

Murder.

Manslaughter.

Voluntary
man-slaughter.

Sec. 8. Be it further enacted, That a slave committing a crime, (which if committed by a free white person would not be punishable by this act with death) by the threats, command or coercion of his or her owner or any person exercising or assuming authority over such slave shall not be found guilty, and it appearing from all the facts and circumstances of the case that the crime was committed by the threats, commands and coercion of the owner or the person exercising or assuming authority over such slave, he or she, the said owner or the person shall be prosecuted for, and if found guilty of the crime, shall suffer the same punishment, as he or she, the said owner or other person would have incurred, if he or she or other person had actually committed the offence with which the same is charged.

Sec. 9. Be it further enacted, That an accessory shall be deemed to be a person who stands by, aids and assists, or who not being present aiding, abetting or assisting, hath advised and encouraged the perpetration of a crime, or the person who after full knowledge that the crime has been committed, conceals it from the magistrate, and harbours and protects the person charged with or found guilty of the same.

Sec. 10. Be it further enacted, That if any person or persons shall excite an Insurrection, or revolt of slaves, or shall attempt by writing, speaking or otherwise to excite an insurrection or revolt of slaves, he, she or they so offending, shall on conviction thereof suffer death, and every accessory thereof, shall pay a fine not exceeding one thousand dollar, be imprisoned for a term not exceeding one year and whipped not exceeding thirty nine stripes.

Sec. 11. Be it further enacted, That murder shall be deemed the unlawful killing of a human being, in the peace of the Territory, with malice a fore-thought, either express or implied, the punishment of murder shall be death.

Sec. 12. Be it further enacted, That manslaughter shall be deemed to be the killing of a human creature, without malice express or implied, and without any mixture of deliberation whatever, it must be voluntary upon a sudden heat of passion, or involuntary in the commission of an unlawful act or a lawful act without due caution or circumspection. In all cases of voluntary manslaughter, there must be some actual assault upon the

person killing, or an attempt by the person killed, to commit a serious personal injury on the person killing: provocation by words, threats, menaces or contemptuous gestures, shall be in no case sufficient to free the person killing, from the guilt and crime of murder; The killing must be the result of that sudden violent impulse of passion, supposed to be irresistible, for if there should appear to have been an interval between the assault or provocation given and the homicide, sufficient for the voice of reason and humanity to be heard, the killing shall be attributed to deliberate revenge and punished as murder; voluntary man-slaughter shall be punished by a fine not exceeding one thousand dollars, or by whipping not exceeding thirty nine stripes and imprisonment not exceeding twelve months, at the discretion of the court.

How punished

Sec. 13. Be it further enacted, That involuntary man-slaughter shall be deemed to consist in the killing of a human being without an intention to do so but in the commission of an unlawful act, or a lawful act, which probably might produce such a consequence, in an unlawful manner: Provided always, that where such involuntary killing shall happen in the commission of an unlawful act, which in its consequences not usually tends to destroy the life of a human being, or is committed in the prosecution of a felonious or riotous intent, the offence shall be deemed and adjudged as murder; Involuntary man-slaughter in the commission of an unlawful act, shall be punished by a fine not exceeding eight hundred dollars, or by whipping not exceeding thirty nine stripes, and imprisonment not exceeding six months, at the discretion of the court. Involuntary man-slaughter in the commission or performance of a lawful act where there has not been observed necessary discretion and caution, shall be punished by a fine not exceeding four hundred dollars, or by whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months at the discretion of the court.

Involuntary
man-slaughter

How punished

Sec. 14. Be it further enacted, That justifiable homicide shall be deemed to consist in killing a human being in self defence, or in defence of habitation, property or person against one who manifestly intends or endeavours by violence or surprise to commit a known felony, such as murder, rape, robbery, burglary and the like, upon either or against any person, who manifestly intends or endeavours in a riotous and tumultuous manner, to enter

Justifiable
homicide.

the habitation of another for the purpose of assaulting or offering personal violence to any person dwelling or being therein: Provided, that a bare fear of any of those offences, to prevent which, the homicide is alleged to have been committed, shall not be sufficient to justify the killing; it must appear that the circumstances were sufficient to excite the fears of a reasonable man, and that the party killing really acted under the influence of those fears, and not in the spirit of revenge.

Sec. 15. Be it further enacted, That if any person invades, or trespasses on the property or habitation of another not with an intention to commit felony, the killing shall be murder, man-slaughter, or justifiable homicide, according to the circumstances of the case, and if any person in his defence kill another, it must appear that the danger was so urgent and pressing that in order to save his own life, the killing the other was absolutely necessary, and it must appear also, that the person killed was the assailant, or that the slayer had really, and in good faith endeavoured to decline any further struggle before the mortal blow was given, and in no case shall a person be justified for the killing of another under the pretence of necessity, unless he were wholly without fault imputable by law, in bringing that necessity upon himself.

Sec. 16. Be it further enacted, That the killing of a slave in the act of revolt, shall be deemed justifiable homicide, and in cases wherein by persuasion, remonstrance or other gentle measures used, a forcible attack and invasion on the property or habitation of another cannot be prevented, it shall be justifiable homicide to kill the person so forcibly attacking and invading the property or habitation of another; but it must appear that such killing was absolutely necessary to prevent such attack and invasion; and that a serious injury was intended or might accrue to the person, property or family of the person killing, and all other instances which stand upon the same footing of reason and justice as those enumerated, shall be justifiable homicide, and the homicide appearing to be so justifiable, the person indicted shall, upon his trial be fully acquitted and discharged.

Sec. 17. Be it further enacted, That if any person shall be charged with voluntary or involuntary man-slaughter, it shall be lawful for the attorney or solicitor

Killing trespasser, when justifiable.

Killing slave in the act of revolt.

Killing in necessary protection of house.

prosecuting, to charge the felony and misdemeanor in the same indictment, and the jury by whom the said person shall be tried may find said person guilty of either charge.

Sec. 18. Be it further enacted, That mayhem shall be deemed to consist, in unlawfully depriving a human being of a member of his body, or disfiguring or rendering it useless, and if any person shall unlawfully cut or disable the tongue, pull out a tooth, put out an eye, slit the nose, ear, or lip or cut off, or disfigure any other limb, or member of another, with an intention in so doing to maim or disfigure such person, whether in the act of fighting or otherwise, the person so offending shall be deemed guilty of mayhem, and on a conviction thereof, shall suffer a fine not exceeding one thousand dollars, or whipped not exceeding thirty nine stripes or imprisonment not exceeding six months at the discretion of the court.

Mayhem.

Sec. 19. Be it further enacted, That rape shall be deemed to consist, in the carnal knowledge of a female forcibly, and against her will, and the offender shall on conviction be punished with death. An assault with intent to commit a rape, shall be punished by a fine not exceeding one thousand dollars, or whipping not exceeding thirty nine stripes, and standing on a pillory one hour at the discretion of the court.

How punished

Rape.

Sec. 20. Be it further enacted, That an assault shall be deemed to consist, in an attempt to commit a violent injury on the person of another; a bare assault shall be punished by a fine not exceeding one hundred dollars at the discretion of the jury; an assault with intent to murder, by shooting or stabbing, or using any weapon likely to produce death, shall be punished by a fine not exceeding one thousand dollars, at the discretion of the jury; all other assaults upon, or attempts against persons, not mentioned or enumerated in this code, shall be punished by a fine not exceeding one hundred dollars at the discretion of the jury.

Assault.

How punished

Assault with intent to murder.

How punished

Other assaults.

Sec. 21. Be it further enacted, That battery shall be deemed to consist, in a person unlawfully beating another, and any person thereof convicted shall be punished by a fine not exceeding one thousand dollars, at the discretion of the jury.

Battery

How punished

Sec. 22. Be it further enacted, That false imprisonment shall be deemed to consist, in the violation of the

False imprisonment.

personal liberty of a free person, and any person being convicted of arresting, confining or detaining, any other free person, without having some process, warrant or legal authority to justify such arrest, confinement or detention, shall be punished with a fine not exceeding one thousand dollars at the discretion of the jury.

Sec. 23. Be it further enacted, That arson shall be deemed, to be malicious burning of the dwelling house or out house of another, and any person being convicted of wilfully and maliciously burning or setting fire to, or attempting to burn a house in a city, town or village, shall be punished with death; and any person being convicted of wilfully and maliciously setting fire to, or attempting to burn, any house or out house, in any other place than in a city, town or village, shall be punished by a fine not exceeding five hundred dollars and whipping not exceeding thirty nine stripes, at the discretion of the Court: and arson committed elsewhere than in a city, town or village, which produces the death of any person, shall be punished with death.

Sec. 24. Be it further enacted, That burglary shall be deemed to be the entering with intent to commit a felony, into a dwelling or mansion house, or into any out house contiguous to, and within the curtilage or prosecution of the same, or into a hired room or apartment in a public tavern, inn, or boarding house, and any person convicted thereof shall be punished by standing on the pillory for one hour, and a fine not exceeding five hundred dollars or whipping not exceeding thirty nine stripes, at the discretion of the court.

Sec. 25. Be it further enacted, That robbery shall be deemed to consist, in feloniously and violently taking of money, goods or other property from the person of another, by force or intimidation, and any person being thereof convicted shall be punished by a fine not exceeding five hundred dollars, and whipping not exceeding thirty nine stripes, at the discretion of the court.

Sec. 26. Be it further enacted, That larceny shall be deemed to consist, in feloniously taking and carrying away, or stealing the property of another, or the means or maniments, whereby the right and title to property may be ascertained; and any person convicted of stealing a horse or other animal, whose feet are not cloven, shall pay a fine not exceeding one thousand dollars, and be whipped not exceeding thirty nine stripes, at the dis-

How punished

Arson

In a city how punished.

Not in a city, how punished.

which produces death.

Burglary.

How punished

Robbery.

How punished

Larceny.

Horse stealing

Punishment.

cretion of the court ; and the indictment for such offence shall charge horse stealing, and shall designate the sex or other description of the animal, whereby its identity may be ascertained : any person convicted of stealing a cow or other horned animal, having its hoofs cloven, except hogs, shall pay a fine not exceeding two hundred dollars, and be whipped not exceeding thirty nine stripes, at the discretion of the court, and the indictment for such offence shall charge cattle stealing, and shall contain such description of the animal stolen as shall identify it to the owner or owners thereof: any person convicted of stealing a hog or hogs, or any other domestic animal or animals, creature or creatures, shall pay a fine not exceeding twenty dollars or be whipped not exceeding thirty nine stripes, or be imprisoned not exceeding two months, at the discretion of the court. If any person shall alter or change, the mark or brand of any animal, with an intent to claim the same, or to prevent identification by the true owner or owners thereof, the person so offending shall suffer the same punishment, the court exercise the same discretion as is inflicted and given, for the theft of such animal.

Cow stealing.

Punishment.

Hog stealing.

Punishment.

Altering marks
or brands &c.

Punishment.

Stealing men-
ments of title
&c.Cancelling or
burning &c
the same.

Punishment

Stealing bonds
or notes &c.

How punished

Stealing a
slave.

Sec. 27. *Be it further enacted,* That if any person shall be convicted of stealing any paper or papers, deeds or other writings, relating to real or personal estate, with an intention to impair, prevent or render difficult the establishment of a title to real or personal estate, or mutilate, cancel burn or otherwise destroy said papers, documents, deeds or writings with the same intention, such person shall be deemed guilty of larceny, and shall suffer, by being fined in a sum not exceeding two thousand dollars, and imprisonment for a time not exceeding six months ; and if any person shall be convicted of stealing any bond or bonds, note or notes, Bill or Bills of Exchange, bank note or bank notes, or a note or notes issued by any corporation, or other paper or papers securing the payment of money, or other thing, or any legal medium of exchange, or if a receipt or receipts, or any paper or papers, operating as a discharge for the payment of money, or other thing, such offender shall be punished in the same manner as he would have been, if he had stolen the money or other thing or things, which the said documents or any of them so stolen, were meant to secure ; any person being committed of stealing a slave or of enticing or of giving a pass, or of using any other

Punishment.

means of inducement to any slave to runaway, or of aiding, assisting or abetting any slave to runaway or otherwise causing a loss of labour of such slave to his or her owner or owners shall be fined and punished not exceeding one thousand dollars, and imprisonment for a term not exceeding six months, for each and every slave, at the discretion of the court.

Larceny from
the house.

Sec. 28. *Be it further enacted,* That if any person shall be convicted of entering or breaking any house, other than a dwelling house, or its appurtenances, with an intent to steal, or after entering or breaking said house, stealing therefrom any money, goods, chattels, wares, merchandize or any other thing or things of value whatever, such offender shall be punished by a fine not exceeding five hundred dollars, or whipped not exceeding thirty nine stripes, or imprisoned not exceeding six months, at the discretion of the court: and any person convicted of entering or breaking, a house or building, as before described with intent to steal, but who is detected and prevented from so doing, shall be punished by a whipping not exceeding thirty nine stripes, or imprisonment not exceeding four months, at the discretion of the court.

Public officers
or servants,
destroying or
embezzling
effect &c.

Sec. 29. *Be it further enacted,* That if any servant, officer or person employed in any public department of this Territory, or any county thereof, or in any office of a corporate body shall embezzle, steal, secrete or fraudulently take and carry away, or burn, tear or destroy any money, goods, chattels, effects, bond or bonds, note or notes, or any other security for the payment of money of whatever description it may be, being the property of the Territory, county or corporate body, such offender shall on conviction be punished by a fine not exceeding one thousand dollars, or thirty nine stripes, or imprisonment not exceeding twelve months, at the discretion of the court: and any person convicted of the theft of any other thing or things not herein specified, shall be fined and punished not exceeding five hundred dollars, or thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.

Punishment.

Other thefts.

How punished

Altering land
marks.

Sec. 30. *Be it further enacted,* That if any person shall knowingly, maliciously or fraudulently cut, fell, alter, or remove, any certain boundary tree, or other allowed land mark, to the wrong of his neighbour, or any other person he or she shall, on conviction be punished by a

fine not exceeding five hundred dollars, or thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.

How punished

Sec. 31. *Be it further enacted*, That if any person shall falsely make, forge, alter or counterfeit, or willingly act or assist, in falsely making, forging or counterfeiting any order or warrant, issued or purporting to have been issued, by the Governor, or by any officer of the government or authorised person, on the Treasury of this Territory, for any money or other thing, or any certificate, draft, warrant or order from any of the public officers of this Territory, issued or purporting to have been issued, under or by virtue of any act or resolution of the Legislative Council, or any certificate, draft, order or warrant issued, or purporting to have been issued, by any court, officer or person authorised to draw on the Treasury of this Territory, or for public money wherever the same may be deposited, or any deed, will, testament, bond, writing obligatory, bills of exchange, promissory note, or order for money, or goods or acquittance or receipt or indorsment, or assignment of any bond, writing obligatory, bill of exchange, promissory note or order for money or goods, with intent to defraud the said Territory, public officer or officers, courts or any persons authorised, or any person or persons whatever; or shall utter or publish as true, any false, forged, altered, counterfeited audited certificate, Governor's or other public officer's, court's or person's duly authorised certificate, drafts, warrant or order so as aforesaid issued, or purporting to have been issued, or any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note, or order for money, or goods or acquittance and receipt for money, or goods or any endorsement or assignment of any bond, writing obligatory, bill of exchange, promissory note, or order for money or goods, with intent to defraud this Territory, or the public officers, Court or persons authorised, or any person or persons whatsoever, knowing the same to be so falsely made, forged, altered or counterfeited, every such person or person so offending, and being convicted thereof, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding twelve months, and stripes not exceeding thirty nine, at the discretion of the court.

Counterfeiting
Treasury certi-
ficates.

Or any deed
bond &c.

Or shall utter
as true, such
counterfeit
certificate &c:

Sec. 32. *Be it further enacted*, That if any person

How punished

Forging or counterfeiting coins.	shall falsely or fraudulently make, forge or counterfeit, or be concerned in the false, fraudulent making, forging and counterfeiting of any gold, silver or copper coin, which now is, or shall be passing, or in circulation within this Territory, or shall falsely and fraudulently make, or be concerned in the false and fraudulent making, of any base coin, of the likeness or similitude of any gold, silver or copper coin, which now is or shall be passing, or in circulation within this Territory, or shall falsely and fraudulently utter, publish, pay or tender in payment, any such counterfeit and base coin of gold, silver or copper, or any base coin, knowing the same to be forged and counterfeited, or base; or shall aid or abet, counsel or command, the perpetration of either of the said crimes, such person shall, on conviction, be punished by exposure on a pillory four hours and a fine of one thousand dollars; or whipping not exceeding thirty nine stripes and imprisonment not exceeding twelve months, at the discretion of the court.
Or shall utter said coin.	
Or aid abet &c.	
How punished	
Counterfeiting bank notes.	Sec. 33. <i>Be it further enacted,</i> That if any person shall falsely and fraudulently make, sign or print; or be concerned in the false and fraudulent making, signing or printing, any counterfeit note or bill of a Bank of this Territory, or bill of any incorporated bank, whose notes or bills are in circulation in this Territory, or falsely and fraudulently cause, or procure the same to be done, such person on conviction, shall be punished by exposure on a pillory for three hours, and a fine not exceeding one thousand dollars, or whipping not exceeding thirty nine stripes, and imprisonment not exceeding twelve months, at the discretion of the court.
Or causing it to be done.	
How punished	
Counterfeiting Checks or drafts on banks	Sec. 34. <i>Be it further enacted,</i> That if any person shall falsely and fraudulently make, sign or print, or be concerned in the false and fraudulent making, signing or printing of any check or draft, upon any bank of the Territory, or bank as aforesaid, or falsely or fraudulently cause, or procure the same to be done, such person on conviction shall suffer the same punishment, as is mentioned for the crime in the preceding section.
Or causing it to be done.	
How punished	
Altering genuine bank notes &c.	Sec. 35. <i>Be it further enacted,</i> That if any person shall falsely and fraudulently alter, or be concerned in the false and fraudulent alteration, of any genuine note, bill, check, or draft as aforesaid, or falsely and fraudulently cause or procure the same to be done, the person so

offending shall suffer the same punishment as is prescribed for the crime of falsely and fraudulently making, signing and printing any bank bill or note.

How punished

Sec. 36. Be it further enacted, That if any person shall falsely and fraudulently pass, pay or tender in payment, utter, or publish, any false, forged, counterfeit or altered Bank Note or notes, or bill of any incorporated or company, or any note, bill, check, or draft as aforesaid, knowing the same to have been falsely, and fraudulently forged, counterfeited or altered, the person so offending, shall upon conviction, be punished by a fine not exceeding one thousand dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding twelve months, at the discretion of the court.

Passing conn.
terfeite notes
&c.

Sec. 37. Be it further enacted, That if any person shall have in his or her possession any such false, forged, counterfeit or altered note, or notes, bill or bills, draft or drafts, check or checks, with intention, fraudulently to pass the same, such person or persons, on conviction, shall be punished by a fine not exceeding one thousand dollars, or whipped not exceeding thirty nine stripes, and imprisonment not exceeding six months at the discretion of the court.

How punished

Sec. 38. Be it further enacted, That if any person shall have in his or her possession, any bank paper, types, plates or machinery, for the purpose of falsely or fraudulently forging and counterfeiting, any notes bills, checks or drafts as aforesaid, the person so offending, shall be punished by a fine not exceeding one thousand dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.

How punished

Sec. 39. Be it further enacted, That if any person shall falsely and fraudulently make, forge, counterfeit or alter, any note, bill, draft or check of, or on any person, body corporate, company or mercantile firm or house, or purporting to be so, or fraudulently and falsely utter, publish, pass, pay or tender the same in payment, or demand payment of the same, knowing the said bill, note, draft or check, to be forged and counterfeit, or falsely and fraudulently altered, such person so offending, shall be punished by exposure two hours on a pillory, and a fine not exceeding seven hundred dollars, or whipping not exceeding thirty nine stripes, or imprisonment not

Having such
forged notes in
possession
with fraudu-
lent intent.

How punished

Counterfeiting
notes, draft
&c. of indivi-
duals &c.

How punished

exceeding twelve months, at the discretion of the court.

Forging other writings.

Sec. 40. Be it further enacted, That if any person shall fraudulently make, sign or alter, or be concerned in the fraudulent making, signing or altering any other writing, with intent to defraud any person or persons, or body corporate; or shall fraudulently cause or procure the same to be done, the person or persons so offending, shall on conviction, be punished by exposure two hours on the pillory, and a fine not exceeding five hundred dollars, or whipping not exceeding thirty nine stripe, or imprisonment not exceeding six months, at the discretion of the court.

How punished

Counterfeiting the seal of the Territory.

Or causing it to be done.

Sec. 41. Be it further enacted, That if any person shall falsely and fraudulently forge or counterfeit, or falsely be concerned in the forging, and counterfeiting the great seal of this Territory, or any seal used for the Government purposes, the public and common seal of any court, office, county, or corporation, or any other seal authorised by law; or, shall falsely and fraudulently cause, or procure the same to be forged and counterfeited; or shall falsely and fraudulently, and knowingly impress, or cause to be impressed, any instrument whatever, whether the same be written or printed, or partly written and printed, or partly written and partly printed with such forged and counterfeit seal; or shall falsely, fraudulently and knowingly annex, or affix, or cause to be annexed or affixed, to any such instrument, such forged and counterfeit seal, or, shall falsely and fraudulently utter, or publish any instrument, or writing whatever, impressed with such forged and counterfeit seal, knowing the same to be forged and counterfeit, the person offending shall be punished, by exposure two hours on the pillory, and a fine not exceeding five hundred dollars, or imprisonment not exceeding six months, or whipping not exceeding thirty nine stripes, at the discretion of the court.

How punished

Drawing bill of exchange &c in fictitious name.

How punished

Sec. 42. Be it further enacted, That any person who shall draw or make a bill of exchange, or promissory note, or indorse or accept of the same in a fictitious name, shall be guilty of forgery, and on conviction, be punished by exposure in the pillory two hours, and a fine not exceeding five hundred dollars, or imprisonment not exceeding six months, or whipping not exceeding thirty nine stripes, at the discretion of the court.

Sec. 43. Be it further enacted, That if any person shall put his own name to any instrument, representing himself to be a different person of that name, such person shall be guilty of forgery; and if any person shall designedly, by colour of any counterfeit letter or writing, made in any other persons name or fictitious name, obtain from any person, money, goods, chattels or other valuable thing, with intent to defraud any person, mercantile house, or body corporate of the same, the person so offending as specified in this section, shall be punished, by exposure on a pillory two hours, and a fine not exceeding five hundred dollars, or whipping not exceeding thirty nine stripes, and imprisonment not exceeding twelve months, at the discretion of the court.

False representation.

How punished

Sec. 44. Be it further enacted, That if any person shall wilfully and corruptly, commit perjury, or shall by any means procure, or suborn any person to commit wilful and corrupt perjury, on his or her oath or affirmation, legally administered, in any judicial proceeding, matter or cause, which may be depending in any of the courts of this Territory, or before any Judge, Justice, Mayor, Alderman or other magistrate, or before any Notary public, Arbitrator or Clerk, or in any deposition, or affidavit taken for any purpose whatever, or in any deposition taken pursuant to the laws of this Territory, or of the rules, orders and directions, of any court, judge or arbitration, or if any person in taking any other oath or affirmation required by law, shall be guilty of wilfully and corruptly making a false oath or affirmation; or if any person shall procure or suborn any person, to make any such false oath or affirmation, every person so offending shall on conviction, be punished by exposure on the pillory two hours, and a fine not exceeding five hundred dollars, or whipped not exceeding thirty nine stripes, and imprisoned not exceeding twelve months, at the discretion of the court.

Purjury.

Subornation of perjury.

How punished

Sec. 45. Be it further enacted, That if any person, by wilful and corrupt perjury, shall cause the life of another to be taken away, or by such wilful and corrupt perjury, convict another of any offence, which by law is or may be punishable, such person shall on conviction be punished with the same infliction or punishment, which shall or might have resulted to such other person, from such perjury.

Perjury in criminal cases.

How punished

Sec. 46. Be it further enacted, That if any person

Bribing Legislative Council, or any Judicial officer &c.

shall, directly or indirectly; give or offer to give, any money, goods or other bribe, present or reward, or give, or make any promise, contract or agreement for the payment, delivery or alienation of any money, goods or other bribe, or use any promise, threats, persuasions, or other like sinister or unfair or fraudulent practices, in order to obtain or influence the opinion, judgment, decree or behaviour, of any member of the Legislative Council, or any officer of the Territory, judge, juror, justice, referee or arbitrators, in any discussion, debate, action, suit, complaint, indictment, controversy, matter or cause depending, or which shall depend, before him or them, such person shall on conviction, be punished by a fine not exceeding one thousand dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding twelve months, at the discretion of the court.

How punished

Embezzling or altering record &c.

Sec. 47. *Be it further enacted*, That if any judge, justice, Mayor, Alderman, Clerk, Sheriff, Coroner, or other public officer, or any person whatever, shall steal, embezzle, alter, corruptly withdraw, falsify, or avoid any record, process, charter, gift, grant, conveyance, or contract, or shall knowingly and willingly, take off, discharge, or conceal, any issue, forfeited recognizance, or other forfeiture, or shall forge, deface, or falsify any document, or instrument recorded, or any registry, acknowledgment or certificate, or shall alter, deface or falsify any minutes, document book, or any proceeding whatever, of, or belonging to any public office within this Territory, or if any person shall cause, or procure any of the offences aforesaid to be committed, or be, in any wise concerned therein, the person so offending, shall be punished by a fine not exceeding one thousand dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding twelve months, at the discretion of the court.

How punished

Duress any cruelty by jailer.

How punished

Sec. 48. *Be it further enacted*, That if any jailor, by too great a duress of imprisonment, or other cruel treatment, make or induce a prisoner to accuse and give evidence against some other person; or be guilty of wilful inhumanity or oppression, to any prisoner under his care and custody, such jailor shall be punished by removal from office, and six months imprisonment, and by a fine not exceeding three hundred dollars, at the discretion of the court.

Sec. 49. *Be it further enacted*, That if any officer after

the expiration of time for which he may have been appointed or elected, shall willfully and unlawfully, withhold or detain from his successor, the records, papers, documents or other writings appertaining and belonging to his office, or mutilate, destroy, take away or otherwise prevent the complete possession by his said successor of said records, documents, papers or other writings, such person so offending, shall be punished by a fine or by imprisonment, at the discretion of the court.

Officer with
holding docu-
ments &c.

How punishe

Sec. 50. *Be it further enacted*, That if any person shall acknowledge, or procure to be acknowledged, in any the Courts of this Territory, any recognisance, bail or judgment, in the name of any other person not privy or consenting thereto, such person on conviction, shall be punished by a fine not exceeding three hundred dollars at the discretion of the court.

Falsely ac-
knowledging
bail.

How punishe

Sec. 51. *Be it further enacted*, That if any person shall knowingly and willfully resist or oppose any sheriff, coroner, or other officer of this Territory, or other person duly authorised, in serving or attempting to serve or execute, any lawful process or order of any court, Judge, Justice or arbitrator, or any other legal process whatever; or shall assault or beat any Sheriff, Coroner, Constable or other officer, or person duly authorised, in serving or executing any process or order aforesaid, or having served or executed the same, every person so offending, shall on conviction be punished by a fine not exceeding three hundred dollars, at the discretion of the court : Provided, that any officer whatever that may or shall assault, or beat any individual, under colour of his commission, without a lawful necessity to do so, shall on conviction, be fined not exceeding three hundred dollars at the discretion of the court.

Resisting legal
process.

How punishe

Proviso, as-
sault by officer
under color.

Sec. 52. *Be it further enacted*, That if any person or persons, shall rescue another in legal custody on criminal process, such person shall receive the same punishment as the person rescued would, on conviction be sentenced to receive, and if the person so rescued shall not have been tried, or shall have been acquitted, it shall be lawful to charge the person rescuing as for a misdemeanor, and upon conviction, such person shall be punished by a fine not exceeding five hundred dollars at the discretion of the court.

Rescue from
criminal pro-
cess.

How punishe

Sec. 53. *Be it further enacted*, That if any person shall aid or assist a prisoner lawfully committed, or de-

Aiding pris-
on er in jail to es-
cape.

	tained in Jail for any offence against this Territory, or who shall be lawfully confined by any civil process, to make his or her escape from jail, although no escape be actually made, or if any person shall convey or cause to be delivered to such prisoner, any disguise, instrument or means, or arms proper to facilitate the escape of such prisoner, any such person although no escape, or attempt to escape be actually made, shall on conviction, be punished by a fine not exceeding four hundred dollars, at the discretion of the court.
How punished In custody of officer.	Sec. 54. <i>Be it further enacted</i> , That if any person shall aid or assist any prisoner to attempt to escape from the custody of any sheriff, constable, officer or other person, who shall have the lawful charge of such prisoner, every person so offending, shall be fined in a sum not exceeding four hundred dollars, at the discretion of the court.
How punished Escape from jail.	Sec. 55. <i>Be it further enacted</i> , That if any person confined in Jail shall escape therefrom, and be thereafter taken, such person shall be indicted for an escape, and being convicted, shall be fined not exceeding one hundred dollars, or whipped not exceeding twenty stripes, at the discretion of the court.
How punished Officer permit ting an escape	Sec. 56. <i>Be it further enacted</i> , That if any Marshal, deputy Marshal, Sheriff or other officer, or person employed, having any offender guilty, or accused of, or confined for any crime, in his custody, shall voluntarily permit such offender to escape, or get at large, every such sheriff or other officer or person so employed, so offending, shall on conviction be dismissed from office, and shall be fined not exceeding three hundred dollars at the discretion of the court.
How punished Officer refu sing to receive offender.	Sec. 57. <i>Be it further enacted</i> , That if any Marshal, deputy Marshal, Sheriff, Coroner, Jailer or other officer, shall willfully refuse to receive any offender charged with, or guilty of any indictable offence, or committed as a witness on the part of this Territory, or having such offender or witness in his custody, shall voluntarily permit or suffer him or her to escape and go at large, then every such Marshal, deputy Marshal, Sheriff, Coroner, Jailer, Constable or other officer, or person so offending, shall on conviction, be fined in a sum not exceeding three hundred dollars, at the discretion of the court.
How punished Receiving stolen goods.	Sec. 58. <i>Be it further enacted</i> , That if any person or persons, shall buy or receive stolen goods, or chattels

that shall be feloniously stolen or taken from another person, knowing the same to be stolen, he, she or they, shall be taken, and deemed an accessory or accessories after the fact, and shall incur the same punishment as would be incurred and inflicted on the person or persons convicted of having stolen the said goods or chatties so bought or received, knowing the same to be stolen.

How punished

Sec. 59. *Be it further enacted,* That if any person shall conceal, receive or harbor any burglars, felons or thieves, knowing them to be so, he she or they shall be taken as accessory or accessories after the fact, and being convicted, shall be punished by a fine not exceeding two hundred dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court. And the escape of the felon before trial shall not operate to excuse the person harboring.

How punished

Sec. 60. *Be it further enacted,* That if any person shall take money, goods or other valuable consideration, or reward or promise thereof to compound any treason, exciting or attempting to excite, and stir up an insurrection or revolt of slaves, murder, man-slaughter, rape, arson, forgery, burglary, house-breaking, robbery larceny, receiving stolen goods or other property, escape, rescue, breach of prison, bribery, perjury, or subornation of perjury, of any other offence heretofore denominated felony, or any other offence punishable by law with death, or a fine of five hundred dollars, or, whipping of thirty nine stripes, or exposure on the pillory, or imprisonment for any time specified and limited, or left to the discretion of the court, as in this act recited, every person so offending, shall be punished by a fine not exceeding one thousand dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding twelve months, at the discretion of the court.

Compounding felony.

Sec. 61. *Be it further enacted,* That if any person informing, or prosecuting under any pretence of any penal law, shall compound with the offender, or direct the suit or information to be discontinued, unless it be by the leave of the court when the same is brought, every person so offending, shall be punished with a fine not exceeding one hundred dollars, at the discretion of the court.

How punished

Sec. 62. *Be it further enacted,* That if any two or more persons shall conspire or agree falsely and maliciously to charge, or indict, or cause or procure to be charged,

Informer or prosecutor compounding.

How punished

Conspiracy.

- How punished and indicted, any person, he she or they so offending, shall on conviction, be sentenced to a fine not exceeding seven hundred dollars, at the discretion of the court.
- Barrator.* See. 63. *Be it further enacted,* That if any person shall be found and adjudged a common barrator, vexing others with unjust and vexatious suits, such persons shall be fined in a sum not exceeding one thousand dollars, at the discretion of the court; and if the offender belongs to the profession of the law, he shall also be disqualified from practising for the future.
- Embracery.* See. 64. *Be it further enacted,* That embracery shall be deemed to consist, in attempting to influence a jury corruptly to one side, by promises, persuasions, entreaties, money, entertainments or other means; and every embracer who shall procure any juror to take money, gain or profit, or shall corruptly influence a juror by persuasions, intreaties or by any other means, shall be punished by a fine not exceeding two hundred dollars, at the discretion of the court.
- Justice, the Peace mal practice of.* See. 65. *Be it further enacted,* That if any justice of the peace charged with mal practice in office, by using oppression, tyronical partiality, or any other conduct uncoupling his character as an upright Magistrate, in the administration, and under colour of his office, on conviction, shall be fined ~~not~~ exceeding five hundred dollars at the discretion of the court, and he shall also be removed from office.
- Threatening letters.* See. 66. *Be it further enacted,* That if any person shall knowingly send or deliver, any letter or writing threatening to accuse another person of a crime with intent to extort money, goods or chattles, or other valuable thing, or threatening to maim, wound, kill or murder or to burn his or her house, or other property, (though no money, goods, chattles or other valuable thing be demanded,) any such person so offending, shall on conviction, be sentenced to a fine not exceeding five hundred dollars at the discretion of the court.
- Other offences against public justice.* See. 67. *Be it further enacted,* That any other offences against the public justice, which may occur, shall be punished by imprisonment not exceeding six months, or a fine not exceeding six hundred dollars at the discretion of the court.
- Turbulent assemblies.* See. 68. *Be it further enacted,* That if any two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not

disperse on being desired or commanded so to do by a Judge, Justice, Sheriff, Constable or other civil officer of this territory, but shall proceed to any breach of the peace, the person so offending shall be punished by a fine not exceeding one hundred dollars at the discretion of the Jury.

How punished

Sec. 59. Be it further enacted, That if any three or more persons, either with or without a common cause of quarrel, do an unlawful act of violence, or any other act in a violent and tumultuous manner, such persons so offending, shall be guilty a riot, and on conviction shall be punished by a fine not exceeding two hundred dollars at the discretion of the Jury.

Riot.

Sec. 60. Be it further enacted That if any two or more persons shall fight in a public place to the terror of the citizens, and disturbance of the public tranquility, the persons so offending shall be punished by a fine not exceeding one hundred dollars, at the discretion of the Jury.

How punished

Sec. 61. Be it further enacted, That if any person or persons shall in any news-paper or hand bill, written or printed, published or proclaim any other person a coward, or use any other opprobrious and abusive language, for not accepting a challenge, or fighting a duel, such person or persons so offending, shall on conviction, be fined not exceeding five hundred dollars, at the discretion of the Jury; and on the trial of such offenders the printers evidence shall be taken, and if the printer shall refuse to give up the author or writers name or names, he shall be punished for contempt at the discretion of the court.

Placarding or publishing another.

Sec. 62. Be it further enacted, That a libel shall be by printing or writing, or signs, pictures and the like, tending either to blacken the memory of one who is dead, or the honesty, virtue, integrity or reputation of one who is alive, and thereby exposing him or her, to public hatred, contempt or ridicule, every person convicted of this offence shall be fined in a sum not exceeding one thousand dollars, at the discretion of the court; and in all cases of indictment for a libel, the person prosecuted shall be allowed to give the truth in evidence.

Libel.

Sec. 63. Be it further enacted, That all other offences against the public peace shall be prosecuted and indicted, and the punishment in every case shall be a fine not

How punished

Truth may be given in evidence.

Other offences against public peace.

- How punished exceeding five hundred dollars, at the discretion of the Jury.
- Bigamy.
- How punished
- Issue of second marriage.
- When legitimate.
- Marrying husband or wife of another.
- Incestuous adultery.
- How punished
- Adultery and fornication.
- How punished
- Second offence.
- Lewd &c.
- Sec. 74. Be it further enacted,* That if any person shall have two wives, or two husbands at one and the same time, knowing of the living and existence of such wives or husbands, he or she shall, on conviction, be sentenced to a fine not exceeding one thousand dollars, at the discretion of the Jury; and the second marriage shall be void, but long absence of the wife or husband, or no information of the fate of such husband or wife, shall be cause of acquittal of the person indicted, and in every case, the issue of such second marriage born before the commencement of any prosecution for bigamy, or within the ordinary time of gestation thereafter, shall notwithstanding the invalidity of such marriage, be considered as legitimate.
- Sec. 75. Be it further enacted,* That if any man or woman, being unmarried, shall knowingly marry the husband or wife of another person, such man or woman shall on conviction, be fined not exceeding one thousand dollars, at the discretion of the jury.
- Sec. 76. Be it further enacted,* That if any person shall commit incestuous fornication or adultery, or intermarry within the degrees of consanguinity or affinity established by law, he or she shall, on conviction, be sentenced to a fine not exceeding one thousand dollars at the discretion of the jury.
- Sec. 77. Be it further enacted,* That if any man and woman shall live together in an open state of adultery, fornication, or adultery and fornication which will be sufficiently established by any circumstances which raise the presumption of cohabitation, and unlawful intimacy, or who shall otherwise commit adultery, or fornication, or adultery and fornication, shall be severally indicted, and on conviction, such man and woman shall be severally sentenced to pay a fine not exceeding five hundred dollars, at the discretion of the jury: and on conviction a second time, a fine not exceeding seven hundred dollars, and for every repetition of the offence, a fine not exceeding eight hundred dollars; but it shall at any time be in the power of the parties to prevent or suspend the prosecution by marriage, if such marriage be legally solemnized.
- Sec. 78. Be it further enacted,* That if any person shall be guilty of open lewdness, or any notorious act of

public indecency, tending to debauch the morals of society, or of keeping disorderly tippling houses on the sabbath day or night, he or she shall be indicted, and on conviction, be fined not exceeding one hundred dollars, or whipping not exceeding thirty nine stripes at the discretion of the court.

How punished

Sec. 79. Be it further enacted, That if any person shall for his or her emolument or livelihood, maintain and keep a lewd house, or place for the practice of fornication, either by themselves or others, he or she, shall on conviction, be sentenced to a fine not exceeding three hundred dollars, at the discretion of the court.

Keeping lewd houses.

Sec. 80. Be it further enacted, That if any person shall keep and maintain a common, ill governed and disorderly house, to the encouragement of idleness, gaming, drinking, or other misbehaviour, to the common disturbance of the neighbourhood or orderly citizens, he or she shall, on conviction, be sentenced to a fine not exceeding three hundred dollars, at the discretion of the court.

How punished

Sec. 81. Be it further enacted, That if any person shall by himself, servant or other agent, for his gain or living, keep, have, exercise or maintain a common gaming house, table or room, or in any house or place occupied by him, procure or permit, any persons to frequent or come together to play for money or other valuable thing at any game, he or she, on conviction, shall be sentenced to a fine not exceeding five hundred dollars, for every such offence, at the discretion of the court: *Provided*, that nothing herein contained shall extend to any gaming house licensed by law.

Keeping disorderly house.

How punished

Keeping ga-
ming house
&c.

How punished

Proviso.

Gambling.

Sec. 82. Be it further enacted, That if any person or persons, who may be found playing and betting in any place not licenced according to the proviso of the section next immediately preceding, at any game with cards, dice, checks or at billiards, or any other instruments, article or articles, thing or things whatsoever, heretofore used or which may hereafter be used, for the purpose of betting upon or winning, or losing money, or any other thing or things, article or articles of value, or any property, or any other article or articles, thing or things of value, may be indicted, and on conviction thereof, shall be fined in a sum not exceeding two hundred dollars, at the discretion of the court: And if any owner or occupant of any house, out house or other

How punished

building, not licensed as aforesaid, shall permit or suffer any of the before mentioned games to be carried on or exhibited in their said houses, out houses or other buildings, on conviction thereof, they shall be fined in a like sum, subject to the discretion of the court. *Provided*, that this act shall not be construed to extend to horse racing, shooting with guns of any description, used against an enemy, wrestling, jumping, foot racing, five playing, pitching with quoits or dollars, or any other peaceable and civil athletic exercise of man or men, not herein particularly enumerated.

Officers may break open gaming houses

Sec. 83. *Be it further enacted*, That it shall be lawful, for any lawful officer with legal authority to break open any suspected rooms or houses, where it is commonly known that gaming is carried on, and to take any persons found gaming, and to bind them over to the next court; *Provided*, that any officer entering the dwelling house of any individual without having sufficient cause for suspicion, and without a legal warrant, shall be fined not exceeding one hundred dollars, at the discretion of the court.

Nuisances not enumerated.

Sec. 84. *Be it further enacted*, That all nuisances not herein mentioned, which tend to annoy the community or injure the health of the citizens in general, or to corrupt the public morals shall be indictable and punishable by a fine not exceeding two hundred dollars, at the discretion of the Court: and any nuisance which tends to the immediate annoyance of the citizens in general, or is manifestly injurious to the public health and safety, or tends greatly to corrupt the manners and morals of the people, may be removed and suppressed by the order of any two or more justices of the peace of the county, founded upon the opinion and verdict of twelve house holders of the same, who shall be summoned, sworn and impanelled for that purpose, which order shall be directed to, and executed by the Sheriff or any constable of the county.

How punished

And removed.

Selling unwholesome provisions.

How punished

Baker selling unwholesome bread.

Sec. 85. *Be it further enacted*, That if any butcher, or person selling the flesh of any diseased animal, or other unwholesome provisions, shall be indicted, and for so doing shall be sentenced to a fine not exceeding two hundred dollars, at the discretion of the court.

Sec. 86. *Be it further enacted*, That if any baker, distiller, merchant or other person, shall sell bad or unwholesome bread, drink or pernicious and adulterated

liquors, knowing them to be so, he shall be indicted, and on conviction, shall be fined in a sum not less than one hundred dollars, at the discretion of the court.

How punished

Sec. 87. Be it further enacted, That if any physician, surgeon or other person, shall wilfully endeavour to spread the small pox without inoculation, or by inoculation, with matter of the small pox, or shall use any other inoculation, than that called vaccination, unless by special permission from the county courts, when the small pox shall make its appearance, he or she so offending shall be fined in a sum not exceeding three hundred dollars, and imprisonment not exceeding three months, at the discretion of the court.

Physician spreading small pox-

How punished

Sec. 88. Be it further enacted, That if any person coming in this territory by land or water, from any place infected with a contagious disease, and in violation of quarantine regulations, shall be indicted in any county in this Territory where he may be found, and on conviction, shall be imprisoned not exceeding two months, or fined not exceeding three hundred dollars, at the discretion of the court.

Breach of quarantine.

How punished

Sec. 89. Be it further enacted, That any person wandering or strolling about, able to work or otherwise, support himself in a respectable way, or leading an idle, immoral or profligate course of life, or keeping or exhibiting, or causing to be kept or exhibited, either of the games or gaming tables, commonly called A. B. C. or E. O. tables or Faro Bank, or any other gaming table or bank, under whatever denomination, except he be licensed, shall be arrested by a warrant issued by any justice of the peace, mayor or alderman, or intendant of police, and bound in sufficient security for his good behaviour, and future industry for one year, and upon refusing or failing to give such security, he shall be committed, and indicted as a vagrant, and on conviction, shall be punished by whipping not exceeding thirty nine stripes, at the discretion of the court: and all other offences against the public morals, health, police or economy, shall be fined in a sum not exceeding two hundred dollars at the discretion of the court.

Vagrants &c.

How punished

Offences against public morals.

Sec. 90 Be it further enacted, That if any person, by false representation of his own respectability, wealth or connections, shall obtain a credit, and thereby defraud any person or persons of money, goods, or other valuable thing, or if any person shall cause or procure others

Cheating and swindling.

How punished	to report falsely of his honesty, respectability, wealth or character, and by thus imposing on the credulity of any person or persons, obtain a credit, and thereby fraudulently get into the possession of goods, wares, merchandise or other valuable thing, he or she, shall be deemed a cheat and swindler, and on conviction, shall be fined not exceeding two hundred dollars or whipped not exceeding thirty nine stripes or imprisonment not exceeding six months, at the discretion of the court.
Other cases of cheating &c.	Sec. 91. <i>Be it further enacted,</i> That if any person shall use any difficult means, (other than those mentioned in this act,) or practices in matters of fraud, shall be deemed a cheat and a swindler, and on conviction shall be sentenced to make restitution to the party defrauded and cheated, and shall be punished by a fine not exceeding two hundred dollars or whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.
How punished	Sec. 92. <i>Be it further enacted,</i> That if any Baker or other person, shall sell bread under the assize established by the corporation of any City or the regulations of any Village or the rules laid down by any law, shall be deemed a cheat, and on conviction, shall be punished by a fine not less than one hundred dollars, or imprisonment not less than three, nor more than six months at the discretion of the court.
Baker selling bread under assize.	Sec. 93. <i>Be it further enacted,</i> That if any person shall sell by false weight or measures, he or she shall be deemed a common cheat and on conviction thereof shall be sentenced to a fine not less than one hundred dollars or imprisonment not more than six nor less than three months at the discretion of the court. And any person guilty of any other deceitful or artful practices by which individuals or the public are defrauded or cheated, shall be punished by a fine not less than one hundred dollars, or imprisonment not less than three or more than six months at the discretion of the court.
How punished	Sec. 94. <i>Be it further enacted,</i> That if any person or persons shall maliciously, or without authority cut down, remove or destroy any beacon or beacons, buoy or buoys, erected by any commission of pilotage, or other person or persons duly authorised for that purpose, he she or they shall, on conviction, be punished by a fine not exceeding one hundred dollars or whipping not exceeding thirty nine stripes, at the discretion of the court.
Destroying beacons &c.	
How punished	

Sec. 95. Be it further enacted. That any person who shall put into any bale or bales of cotton, cask or casks or other packages of sugar, rice or pork, or any other articles of provisions, any dirt, rubbish or other thing, for the purpose of adding to, or increasing the weight of the same, shall be deemed a common cheat, and on conviction shall be fined in a sum not exceeding two hundred dollars at the discretion of the court.

Fraud in passing cotton &c.

How punished

Sec. 96. Be it further enacted, That all other offences committed by cheating and deceit or against the public trade not herein enumerated, but which may occur, shall be punished by a fine not exceeding one hundred and fifty dollars, at the discretion of the court.

Other cases of cheating.

How punished

Sec. 97. Be it further enacted, That any person or persons who shall wilfully and maliciously set fire to, or burn, any stack or stacks of corn, fodder, grain, straw or hay, shall on conviction, be fined not exceeding three hundred dollars or whipped not exceeding thirty nine stripes, at the discretion of the court.

Burning stacks of corn, fodder &c.

How punished

Sec. 98. Be it further enacted, That if any person shall wilfully and maliciously set on fire any woods, lands or marshes, within this Territory, so as thereby to occasion loss, damage or injury to any other person, he or she on conviction, shall be sentenced to a fine not exceeding two hundred dollars or whipping not exceeding thirty nine stripes, at the discretion of the court: Provided, that it shall be lawful for any person, upon giving notice to all persons residing within two miles of the place intended to be fired, to set on fire, any woods in this Territory, during the months of February, March and April.

Burning woods &c.

How punished

Proviso, when woods may be burnt.

Sec. 99. Be it further enacted, That if any person shall wilfully and maliciously set fire to any fence or fences, enclosure or enclosures, or cause and procure the same to be done, he or she shall, on conviction, be sentenced to a fine not exceeding two hundred dollars or whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.

Burning fences &c.

How punished

Sec. 100. Be it further enacted, That if any person, shall unlawfully and maliciously break down, open, cut through, injure or destroy, any bridge, river or meadow bank, rice dam, mill dam, or any other dams or banks, every such person so offending shall on conviction, be sentenced to a fine not exceeding five hundred dollars, or

Destroying bridges &c.

How punished

whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.

Maiming or killing horses &c.

How punished

Sec. 101. *Be it further enacted*, That if any person shall maliciously maim or kill any horse, bull, steer or cow or any other animal falling under the description as before given, or shall maliciously kill a hog or hogs, any such person so offending, shall on conviction, be sentenced to pay a fine not exceeding two hundred dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.

Destroying turn-pike gates, post &c.

How punished

Sec. 102. *Be it further enacted*, That if any person shall maliciously injure or destroy any turn-pike gate or gates, or any post or posts, rail or rails, wall or walls, or chains, bar or fence, belonging to any turn-pike gate, or any house or houses to be erected for the use of any such turn-pike gate or gates, or shall maliciously and wilfully injure and destroy locks, guide posts, or other works erected to protect and secure the navigation of rivers, every such person so offending, shall on conviction, be fined in a sum not exceeding two hundred dollars, or whipping not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court.

Burning or destroying ships, boats &c.

How punished

Sec. 103. *Be it further enacted*, That if any person shall wilfully and maliciously burn, or set fire to a ship, boat or other vessel, above the value of two hundred dollars, within any of the waters of this Territory, or if any person, shall wilfully and maliciously make, or be assisting in making any hole in the bottom, side or any other part of a ship, boat or vessel, above the value aforesaid, or do any other act tending to the loss or destruction of such ship, boat or vessel, every person so offending shall on conviction, be fined in a sum not exceeding five hundred dollars or whipping not exceeding thirty nine stripes, or imprisoned not less than six, nor more than twelve months, at the discretion of the court.

Other acts of malicious mischief.

How punished

Driving away cattle.

Sec. 104. *Be it further enacted*, That all other acts of malicious and fraudulent mischief, not here enumerated, but standing upon the same footing of reason and justice, shall be punished by fines, not exceeding two hundred dollars, or whipping not exceeding thirty nine stripes or imprisonment not exceeding twelve months, at the discretion of the court.

Sec. 105. *Be it further enacted*, That if any person shall drive, entice away or remove any cattle, from a

pasturage or range, without leave of the owner of such cattle, such person so driving or enticing or removing, shall be fined in a sum not exceeding twenty five dollars, at the discretion of the court: and if such offender shall be a slave, he or she shall, unless said fine be paid, be punished not exceeding twenty lashes, at the discretion of the court.

How punished

If a slave.

Sec. 106. *Be it further enacted*, That if any person shall hunt by fire light in the night time, with a gun or other fire arms beyond his own enclosure, such person shall on conviction, be fined in a sum not exceeding twenty five dollars, or imprisonment not exceeding one month, at the discretion of the court.

Fire hunting

How punished

Sec. 107. *Be it further enacted*, That if any person shall be engaged or concerned in vociferation, noise, selling spirituous liquors, or any other act, having an immediate tendency to disturb, or cause a disturbance, of a congregation of white persons assembled for the purpose of divine worship, at a church, chapel, synagogue, camp meeting or other public place, with intent so to disturb, or cause a disturbance, such person shall be fined not exceeding one hundred dollars, or, whipped not exceeding thirty nine stripes, or imprisonment not exceeding six months, at the discretion of the court: Provided, that this prohibition, shall not be construed to prevent any person in a city, town or village from pursuing his usual avocations except on Sunday.

Disturbing divine worship

How punished

Proviso.

Sec. 108. *Be it further enacted*, That if any person having the legal control of a slave shall suffer him or her to go at large, and trade as a free person, such person so offending, shall be fined in a sum not exceeding thirty dollars, at the discretion of the court.

Suffering slave to trade.

How punished

Giving ticket to slave.

Sec. 109. *Be it further enacted*, That if any person shall give a ticket or license to a slave, who is under the control or charge of another, without the consent of such person having the control or charge, he or she shall be fined in a sum not exceeding twenty dollars, at the discretion of the court.

Buying from slave.

Sec. 110. *Be it further enacted*, That if any person shall buy, accept or receive, from any slave any money, grain, produce or thing of value, exceeding the value of one dollar, except brooms, baskets, mats or things commonly manufactured by slaves, without a ticket from the master, or owner or overseer of such slave, authorising such slave to dispose of such thing of value, the person

~~How punished~~ so buying, accepting or receiving, shall be fined in a sum not exceeding fifty dollars, at the discretion of the court.

~~Unfair practices at the land sales~~

~~How punished~~

~~Public road or highway defined~~

~~Obstructing public road.~~

~~How punished~~

~~Employing servants in labor on sunday.~~

~~How punished~~

~~Keeping open stores on sunday &c.~~

Sec. 111. Be it further enacted, That if any person at or before any public land sales that may, by order of the General government, take place in this Territory, shall use any means by threats, persuasion or propositions to compel or induce any person wishing to purchase for settlement, or that may have settled and previously made improvements on public lands, to give him directly or indirectly, any sum of money or to promise to give the same or any species of property in lieu thereof, as a bribe fee, premium or consideration for such person not to bid for said land, he shall on conviction thereof be fined in a sum not exceeding two hundred dollars, and imprisoned not exceeding six months at the discretion of the court.

Sec. 112. Be it further enacted, That a public road or established highway, shall be construed to be any road made by authority of an act of congress of the United States, by any law of this Territory, or by any order of the county courts of this Territory.

Sec. 113. Be it further enacted, That if any person or persons within this Territory shall obstruct any public road or established highway, by fencing across or into the same, every such person or persons, who shall build any fence or wilfully cause any other obstruction in such road or highway, or any part thereof, shall be liable to be indicted, and on conviction thereof, shall be fined in a sum not exceeding fifty dollars at the discretion of the court.

Sec. 114. Be it further enacted, That if any person on the sabbath day called sunday, shall employ his apprentices, servants or slaves in labour or other business, except it be in the ordinary household business of daily necessity, or other work of necessity or charity, he shall forfeit and pay the sum of two dollars for every such offence, deeming every apprentice, servant or slave so employed as constituting a distinct offence.

Sec. 115. Be it further enacted, That no merchant or shop keeper, or other persons, shall keep open store or dispose of any wares or merchandise, goods or chattels, on the first day of the week called Sunday, after 10 o'clock A. M. of that day, or sell or barter the same, upon pain, that every person so offending shall forfeit

and pay the sum of twenty dollars for every such offence.

How punished

Sec. 116. *Be it further enacted*, That if any person or persons whatsoever, shall shew forth, exhibit, act, represent or perform, or cause to be shewn forth, acted, represented, or performed any interludes, farces or plays of any kind, or any games, tricks, juggling, slight of hand or feats of dexterity, and agility of body or any bear baiting, or bull baiting, or any such like shew or exhibitions whatsoever, except in the Cities of Pensacola, St. Augustine and Fernandina, on the said first day of the week called Sunday, every person so offending and being thereof convicted, before any justice of the peace of the county where the offence shall have been committed, shall for every such offence, forfeit and pay the sum of fifteen dollars.

Exhibiting
plays or shew
&c on sunday!

Exception.

How punished

Sec. 117. *Be it further enacted*, That it shall be the duty of the justices before whom such conviction shall be had, to take and receive all such forfeitures and fines as may become due by virtue of the three preceding sections, and pay the same to the Treasurer of the county wherein the crime was committed, for county purposes.

Duty of the
Justice convic-
ting offender.

Sec. 118. *Be it further enacted*, That no person shall be prosecuted for any offence against these three sections, unless the prosecution be commenced within three days after the commission of such offence.

Imitation of
prosecution.

Sec. 119. *Be it further enacted*, That if any person shall erect or fix on any navigable water course any dam, bridge, hedge, seine, drag or other stoppage, whereby the navigation of boats drawing three feet water, or the passage of fish may be obstructed, such person shall be liable to indictment, and on conviction thereof, be fined at the discretion of the court, not exceeding one hundred dollars, and the same obstruction shall be removed as a nuisance.

Obstructing
navigation of
rivers &c.

Sec. 120. *Be it further enacted*, That if any person or persons shall fell any tree or trees, or cause the same to be felled, into any navigable stream within this Territory, and shall not remove the same within twenty four hours after such felling, every such person or persons shall be liable to be indicted and on conviction thereof, shall be fined at the discretion of the court, in any sum not exceeding fifty dollars.

Felling trees
into any navi-
gable stream.

Punishment of
death and
whipping now,
inflicted.

Punishment of
pillory.

Benefit of
clergy.

Furnishing
prisoner in
jail with liquor

Sec. 121. Be it further enacted, That the punishment of death, shall be inflicted by hanging by the neck, in some public place until the culprit be dead, and the punishment of whipping shall be inflicted on the bare back of the culprit with a cow skin or other instrument of like flexibility.

Sec. 122. Be it further enacted, That when the punishment of exposure on the pillory shall be inflicted, the pillory shall be placed in a square, street, road or other public and exposed place.

Sec. 123. Be it further enacted, That the doctrine of the benefit of clergy shall have no operation or influence in staying, and modifying the legal proceedings against criminals.

Sec. 124. Be it further enacted. That if any person or persons, without the consent of Marshal of the district, the Sheriff of the county, or the keeper of the jail, shall furnish or supply any prisoner or prisoners, with any intoxicating liquor, he or she, if a white person, shall upon conviction thereof, be fined in a sum not exceeding fifty dollars, or imprisoned not exceeding thirty days, at the discretion of the court.

Passed 14th November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 22d 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To provide for changing the venue in criminal cases.

Venue how
changed.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Judges of the Superior Courts of law in this Territory, in all trials had before them, upon indictments for felonies or misdemeanors, shall have power on the application of a prisoner and for good cause shewn, upon oath, to order the venue to be changed, and the trial to be had at the next convenient court of law having jurisdiction of such cases.

Sec. 2. Be it further enacted, That in all cases when the application aforesaid shall be granted, it shall be duty of the Judge granting the same, to recognise the witnesses in the case to be and appear before the court to which the cause may be transferred, on some certain day of the term of said court; if the offence with which the person stands charged be bailable, the Judge upon his entering into an approved recognisance, shall bind the prisoner to be and appear at the same day and place, with the witnesses as aforesaid; if the prisoner fail to enter into the requisite recognisance, or the offence shall not be bailable, in either case, the prisoner shall be remanded into the custody of the proper officer, who shall convey him to, and have him imprisoned in the jail of the county where he is to be tried; in all such cases a certified copy of the recognisance taken, and of the record of the case, and the proceedings therein, with all other necessary papers, shall be transmitted to the clerk of the court in which the trial is to be had, who upon receipt thereof shall issue a *venire facias*, directed to the ministerial officer of his court, and any and all the proceedings which may be had in the trial of such criminal, shall be the same as though the case had originated in that court.

Duty of Judge granting change of venue.

Duty of the marshal &c.

Sec. 3 Be it further enacted, That in all cases when a prisoner may be removed from one county to another under the provisions of this act, the Marshal or other officer removing the same, shall, if he deem it necessary, employ a sufficient guard for that purpose, and the officer shall be allowed his expences in transferring such prisoner to be paid him by the Territorial Treasurer upon presenting his account for the same, certified to be correct by the Judge granting the change of venue.

Passed 15th November, 1828.

PETER ALBA,
President of the Legislative Council.
THOS. MUNROE, Clerk.

Approved 19th November 1828,
WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To regulate proceedings in Chancery.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That a writ of ne exeat shall

**Writ of ne
exeat when
granted.**

not be granted, but upon a bill filed and affidavit made to the truth of the allegations, which being produced to the court in term time, or to the judge in vacation, he may grant or refuse such writ, as to him shall seem just, and if granted, he shall endorse thereon in what penalty bond and security shall be required of the defendant; and a writ of *ne exeat* may issue in any case where the court of Chancery shall have concurrent jurisdiction with a court of common law, and he shall also endorse the name of the securities, and in what sum bond shall be required of the complainant, and no writ of *ne exeat* shall issue until such bond shall be given by the complainant in the clerks office from whence the writ is to issue, and in case any person stayed by said writ of *ne exeat* shall think himself or herself aggrieved, he or she may bring suit on such bond and shall recover the damages sustained by such writ of *ne exeat*.

**Temporary
absence, no
breach of bond**

Sec. 2. Be it further enacted, That if the defendant shall go out of the Territory and shall return before a personal appearance shall be necessary by any decree of the court, or it shall be necessary to perform any order of the court, such his or her temporary departure shall not be considered a breach of the condition of the bond.

**Power of secu-
rity over prin-
cipal.**

Sec. 3. Be it further enacted, That whenever the defendant or defendants to the bill shall give security that he or they will not depart the Territory, the security personally or by attorney shall have power at any time (before the bond shall be forfeited) to take the body of his principal, and surrender him in open court, or deliver him to the ministerial officer of the court in which the suit is depending, who shall detain said principal as in cases of the surrender of the principal by special bail, and at the time of such delivery to the aforesaid officer he shall take his receipt for the body, and file it with the clerk of the court, either of which, if done before the bond is forfeited, shall discharge the security from his undertaking.

**Injunction and
Subpoena.
when issued.**

Sec. 4. Be it further enacted, That no subpoena in chancery shall issue until a bill of complaint shall have been filed in the clerks office, nor shall any writ of injunction or *ne exeat* be granted until a bill be filed praying for such writ, except in the special cases and for the special causes in which such writs are authorised by the practice of the courts of the United States exercising

equity jurisdiction, and no writ of injunction to stay proceedings at law, shall issue except on motion to the court or Judge, and reasonable notice of such motion previously served on the opposite party or his attorney, and the defendant after injunction granted, may either before or after answer filed, on due-notice being previously given to the opposite party or his solicitor, move the court or the Judge for the dissolution of any injunction which may have been granted.

Sec. 5. Be it further enacted, That it shall rest in the sound discretion of the Judge, under the circumstances of the case, on granting a writ of injunction to stay proceedings at law, either before or after verdict, or on granting a writ of injunction for any other cause, to require security for damages or costs from the party applying for such injunction ; Provided, that in all cases where a bill of injunction shall be dissolved either in part or the whole, the court shall award judgment as well against the surety or sureties, as the principal in such bill, and execution shall issue accordingly.

Sec. 6. Be it further enacted, That in all cases in chancery the testimony shall be taken in writing on interrogatories out of court, except testimony to prove the execution of any instrument of writing, which testimony may be taken orally in court, or by deposition out of court on interrogatories, that the testimony of witnesses who reside in this territory shall be taken as aforesaid by deposition on interrogatories before any Judge or Justice of the peace in this Territory, and in all cases the party desiring to take testimony by interrogatories shall pursue the same course as is pointed out for taking testimony by interrogatories in the courts of law of this Territory.

Sec. 7. Be it further enacted, That the Superior and County courts of Florida, shall always be open for the issuing and return of process, making, hearing and deciding motions, presenting, arguing and deciding upon petitions, granting injunctions, and passing interlocutory orders and decrees.

Sec. 8. Be it further enacted, That the form of a subpoena to answer, shall be as follows :—Territory of Florida, to

Greeting, you are hereby commanded and strictly enjoined, that laying all other business aside and notwithstanding any excuse, you personally be and appear, before the Judge of our _____

Security on injunction.

Judgment against surety on dissolution of.

Testimony how taken.

Court of chancery always open.

Form of subpoena.

court for the district or county of _____ (as the case may be) on the _____ day of _____ wherever the court may then be, to answer to a bill of complaint exhibited against you in our said court by _____ and to do further and receive what our said court shall have considered in that behalf; and this you are not to omit under a penalty of five hundred dollars. Witness the Honourable _____ Judge of said court the _____ day of _____ in the year of _____

A. B.

Subpoena how served.

Sec. 9. Be it further enacted, That the names of the defendant or defendants, however numerous, may be inserted in one subpoena and that the service thereof may either be by a delivery of a copy thereof to such defendant, shewing the original at the time of such delivery, or to the wife of such defendant, or any white person above the age of fifteen years residing in his or her family, at the time of such delivery, at the dwelling house or usual place of abode of such defendant, and such service shall be made before or on the day to which the process is made returnable, that the court from which the subpoena has issued, the title of the cause, and the words "copy of subpoena," together with the name of the plaintiffs solicitor, shall be inserted on the back of the copy of the subpoena, which may be so served, and when such service shall be made by the ministerial officer of the court from which the subpoena issued, it shall be his duty to note in writing on the original subpoena, the time at which it came to his hands and when served, the time and manner of the service thereof, which note shall be subscribed with his name and office; when service of process is made by any person other than the sworn officer of the court whence it issued, affidavit of the time and manner of the service shall be made and returned in the original subpoena, and it shall be the duty of the ministerial or executive officers of the several courts of this Territory to make return of all process placed in their hands, and of their proceedings thereon immediately after the service or execution thereof.

Duty of officer serving same.

Return days for process

Sec. 10. Be it further enacted, That the first day of every term, and the first monday in every month shall be the days to which process shall be made returnable, and when the process is returnable out of term and shall have been served, the defendant or defendants shall

cause his, her or their appearance to the subpoena to be entered in the office of the clerk of the court from which it is issued, on or before the first monday in the month next succeeding the month in which the process was returnable, and when the process is returnable to a term of the court and shall have been returned served, the defendant or defendants shall cause his, her or their appearance to be entered on or before the first monday of the month next after that in which the process was returnable: Provided, three weeks shall have elapsed from the return day thereof, and if not, then on the first monday of the following month.

Sec. 11. Be it further enacted, That if process shall not be returned, it shall be the duty of the clerk of the court from which it issued, to issue similar process, if the same shall be required by the party at whose instance it originally issued.

If process
not served.

Sec. 12. Be it further enacted, That whenever it shall be made to appear by affidavit to any of the Judges of the aforesaid courts, process has been issued against any defendant and has been returned "not executed," and that the said defendant is within the district of the Territory in which the court issuing the process is held, but that the said defendant cannot be found, or will not suffer service of process to be made on him or her, it shall and may be lawful for the said Judge from whose court the process issued to grant an order, requiring the said defendant to appear and answer the complainants bill within four weeks; which order shall be published once a week during the said four weeks in some newspaper printed in the district, in which the court which grants the order is held, or if there be no newspaper published, then a copy of the said order shall be posted up at the court house of the district or county in which it was granted, for the above space of four weeks, and at the expiration of two months from the termination of the above four weeks, if the defendant shall not have appeared and answered the complainants bill, the said complainant may enter in the common rule book at the clerks office, an order that the complainants bill be taken *pro confesso*, having first obtained the said order from the Judge, upon proof of the publication or posting up as aforesaid of the order for appearance and answer.

Service by
publication,
when defend-
ant lives in the
territory.

Sec. 13. Be it further enacted, That whenever it shall be made to appear by affidavit to the Judge of the court in which a bill shall have been filed, that any defendant therein resides out of the district of the Territory, in which the bill is filed, an order requiring such defendant to appear and answer, otherwise the complainant's bill shall be taken *pro confesso*, shall be published in any newspaper printed in the district of this Territory in which the bill is filed, for the time herein prescribed, that is to say, if the said defendant resides in this Territory but not in the district in which the bill is filed for two months, if in any other part of the United States for four months, if in any of the West India Islands for six months, and if in Europe for nine months, which publication shall be made when the defendant resides in the United States once a week, and when he or she resides out of the United States, once a month during the periods above prescribed, if no newspaper be published in the district in which the bill is filed, publication of the aforesaid order shall be made in any other newspaper published in the state adjoining the district, in which the bill shall be filed, in which last case in addition to such publication, the said order to appear and answer, shall be posted up at the court house in which the Superior court for the said district holds its session, and a copy of such order having been published in the manner and for the time prescribed by law, and one month having expired of the time thereby limited for appearance and answer by the defendant, upon proof thereof by affidavit to the Judge of the court in which the bill is filed, an order that the complainant's bill may be taken *pro confesso* shall be granted, and entered in the common rule book kept by the clerk, and the complainant may either have the matter of the said bill decreed or he may obtain a commission or commissions for taking testimony, and have a decree upon his bill as confessed, and the testimony adduced by him in the same manner as if the cause were at issue.

Sec. 14. Be it further enacted, That the return of process executed shall be sufficient whereon to ground any subsequent proceedings.

Sec. 15. Be it further enacted, That if a defendant shall not file his or her answer within three months from the return of the subpoena executed, the complainant may either proceed on his bill as confessed, or have a

When defendant
resides out
of the territory.

Or out of the
United States.

Return of pro-
cess executed.

When a bill
may be taken
pro confesso
&c.

commission or commissions to take testimony, or he may move the court for an attachment, which shall be granted, to bring the defendant in to answer the charges and interrogatories contained in his bill at his election, and may proceed in the two last cases, as if the answer had been filed, and the cause were at issue: Provided always, that the court in its discretion for cause shewn, may allow the answer of the defendant to be filed, and grant a further day for the hearing; and when a party is in custody on such attachment, he or she shall be detained in custody, until he or she shall file his or her answer or be discharged by the court or the Judge thereof.

Further time
to answer.

Sec. 16. Be it further enacted, That the defendant may at any time before the bill is taken for confessed, or afterwards, with the leave of the court demur or plead to the whole bill or part of it, or he may demur to part, plead to part, and answer the residue thereof; in such manner as is authorised by the practice of the High Court of Chancery in England, and by the rules of practise for courts of equity of the United States, under the authority of the act of Congress of May 8th 1792.

Further time
in which de-
fendant may
demur &c.

Sec. 17. Be it further enacted, That the complainants shall put in the general replication, or file exceptions to the defendants answer, and give notice thereof to him or his solicitor, and no special replication to an answer shall be filed but by leave of the court or Judge thereof for cause shewn.

General repli-
cation or ex-
ceptions to an-
swer.

Sec. 18. Be it further enacted, That every defendant may swear to his or her answer before any judge or justice of the United States, or judge or justice of any court of any of the United States or Territories of the United States, or of any justice of the peace, or Notary Public of any of the said states, or Territories, or of this Territory.

Before whom
answer may
be sworn to..

Sec. 19. Be it further enacted, That the complainant may amend his bill at any time before answer, plea or demurrer filed of course, and without costs, but if the defendants appearance be entered, and the defendant hath procured a copy of the bill, the complainant shall furnish the defendant with a certified copy of the amendment gratis, but no amendment in a matter of substance shall be allowed as of course to any bill which has been sworn to.

Amendment:

Sec. 20. Be it further enacted, That if a plea or demurrer has been overruled, no other plea or demurrer

If plea or de-
murrer be
overruled:

shall thereafter be received, but the defendant shall answer the plaintiff's bill, and if he fail to do so within one calendar month thereafter, the same or so much thereof as was covered by the plea or demurrer, may be taken for confessed, and the matter thereof be decreed accordingly.

Sec. 21. Be it further enacted, That the plaintiff may set down a demurrer or plea to be argued, or he may take issue upon the plea; if upon an issue, the facts stated in the plea be determined for the defendant, they shall avail him as far as in law and equity they ought to avail him: if a plaintiff shall not reply to, or set for hearing any plea or demurrer, and give notice thereof to the defendant or his solicitor, one calendar month before the second term of the court after filing the same, the bill may be dismissed with costs, and the defendant may in all cases instead of filing a formal plea or demurrer, insist on any special matter in his answer, and have the same benefit thereof as if he had pleaded the same matter or had demurred to the bill.

If answer be insufficient.

Sec. 22. Be it further enacted, That if an answer shall be considered insufficient, the complainants solicitor may file exceptions thereto at any time within three weeks from the notice of the filing thereof in the clerks office, and enter a rule with the clerk that the defendant make a better answer within six week, notice of which rule and of the filing the exception, shall be served upon the defendant or his solicitor, and if the defendant shall insist on the sufficiency of his answer, the complainant may set down his exceptions for argument at the next term, and if they are sustained, no further or other answer shall be received, but on payment of costs, and if a second answer put in be adjudged insufficient, the defendant shall pay double costs, and the defendant may also in such case be examined on interrogatories and committed till he or she sufficiently answer them, or the plaintiff may move the court to take so much of the bill as is not answered for confessed, and may file his replication, obtain commissions for testimony, and proceed to hearing in the usual manner.

Rules to plead &c.

Sec. 23. Be it further enacted, That rules to plead, answer, reply or setting the cause for hearing and other proceedings not particularly mentioned in this act, and all or proceedings before mentioned in it, shall be entered in a rule book to be kept by the clerks of the court for

that purpose, and notice of the entry thereof shall be served on the solicitors of the parties if there be any employed, and if not, upon the parties respectively.

Sec. 24. Be it further enacted, That after any bill, and before the defendant has answered on oath made, that any of the complainants witnesses are aged, infirm or are going out of the jurisdiction of the court, or that any of them is a single witness to a material fact, the clerk of the court in which the bill is filed, may issue a commission to any justice of the peace of the Territory for taking the examination of such witness or witnesses *de bene esse*, the party desiring such commission giving reasonable notice to the adverse party of the time and place of taking such examination, if such adverse party or parties shall be known to the complainant; and the examination taken as aforesaid, shall be certified by the officer who shall have taken it, and be returned sealed up to the office of the clerk who issued the commission.

Commissions
to take testimo-
ny *de bene esse*.

Sec. 25. Be it further enacted, That for the purpose of compelling the attendance of witnesses who reside within the Territory, a subpoena shall issue under the seal of the court, with a blank for the names of the witnesses, to be filled up by the party procuring the same, as occasion may require, requiring the witnesses to attend before the justice or commissioners at such time and place as the said justice or commissioners shall appoint for the purpose of giving evidence in the cause therein described, and a memorandum in writing subscribed by the said justice or commissioners or one of them, designating the time and place where the said commissioners or justice shall attend or meet for that purpose, being left with the witness at the time the subpoena shall be served on him, shall be sufficient to compel the attendance of such witness at the time and place designated in like manner as if the said time and place had been designated in the said subpoena, or to incur a contempt if he does not attend accordingly.

Subpoena for
witnesses.

Sec. 26. Be it further enacted, That commissioners may issue in term time or vacation to take testimony of witnesses residing out of the Territory by any two or more persons named in the commissions, by the order of the court or the judge thereof in vacation: Provided, that not more than four persons shall be named therein, two of whom may be named by the complainant, and

Commissions
to take testi-
mony out of
the territory.

two by the defendant, all the testimony taken under a commission to be executed out of the Territory, shall be taken on interrogatories and cross interrogatories filed in the clerks office, and a copy thereof served upon the solicitor of the opposite party if there be one employed, if not, upon the party himself, and the party upon whom, or upon whose solicitor, a copy of the said interrogatories shall be served, shall have ten days from such service in which to file cross interrogatories, and if cross interrogatories be not filed within ten days, the commission may issue for taking the testimony upon the direct interrogatories, the copy of the interrogatories shall be accompanied with notice of the name, residence and occupation, if it be known of the witness or witnesses to be examined, and also of the name, residence and occupation, if it be known, of the person or persons who are to be proposed to the court or judge as commissioners on the part of the party for whom the testimony is to be taken, and when the opposite party files his or her cross interrogatories, they shall be accompanied with the names, residence and occupations of the persons to be proposed by him or her as commissioners; all testimony taken *viva voce* in open court shall be taken down in writing at the time by the clerk.

Injunction to stay proceedings at law, when & how issued

Sec 27. Be it further enacted, That no injunction shall issue to stay proceedings at law after verdict or inquest of damages, unless the party applying therefor shall have previously paid all the costs of the suit at law, and shall have entered into a bond with two or more sufficient securities in double the amount of the verdict at law, payable to the plaintiff in the action at law, and conditioned to pay the said plaintiff the amount of the verdict, inquest or judgment at law, together with ten per cent on the same, if the said injunction shall be dissolved, or the bill upon which it may be granted shall be dismissed and no injunction to stay proceedings at law before verdict or inquest of damages shall issue, unless the party applying shall have previously paid all the costs in the suit at law, and shall have entered into a bond in double the amount or value of the property, with two good and sufficient securities to the plaintiff in the action at law, and conditioned to pay to the said plaintiff all damages, losses, expences and charges, which he really may have sustained, or have been put to, by reason of the issuing of the said injunction, if the injunction shall

Be dissolved or the bill on which it was granted shall be dismissed.

Sec. 28. *Be it further enacted*, That every final decree shall be made up and engrossed by the clerk of the court, and be signed by the Judge of the court in which it was pronounced, at any time upon request of the party plaintiff or his solicitor, after the expiration of thirty days from the time of pronouncing the decree, unless it shall have been appealed from or a petition for a re-hearing shall have been presented within the said thirty days, and no process shall be issued or other proceedings had on any final decree or order, until the same shall have been engrossed and signed as aforesaid, and filed in the clerks office; and every final decree or order of any of the courts of this territory in any suit or proceeding in equity, which shall direct the payment of money either absolutely or conditionally, shall have the same binding effect upon the property of the party against whom such decree or order shall have been pronounced, from the time of the filing thereof in the clerks office, engrossed and signed, as a judgment at law, has by law.

Final decree,
how and what
made up.

Effect of a de-
cree.

Sec. 29. *Be it further enacted*, That a petition for a re-hearing regularly presented within thirty days from the time of pronouncing the decree, shall prevent the issuing of process until the prayer of the said petition shall be determined on, and such petition shall be determined on at the term of the court in which the decree was pronounced, if it can be done, if not, within thirty days from the time at which the petition was presented; every petition for a re-hearing shall contain the special matter or cause on which such a re-hearing is applied for, and the facts therein stated, if not appearing on the face of the proceedings, shall be verified by the oath of the party or some other credible person; after a re-hearing shall have been granted, no further or other proceedings shall be had or taken on the decree pronounced on the original hearing of the cause.

Petition for re-
hearing.

Sec. 30. *Be it further enacted*, That from any and every final decree pronounced in the county courts of this Territory, an appeal may be taken as a matter of right and of course, to the Superior court of the district in which it was pronounced, and every appeal taken according to the provisions of this act from any such decree, shall operate as a supersedeas and stay all other proceedings upon the decree appealed from: That an appeal shall

Appeal from
the county
court.

How taken

be taken by filing in the office of the clerk of the court in which the decree was pronounced, a written memorandum that the cause was carried to the Superior court by appeal, by paying all the costs which have accrued in the county court, and giving notice of the appeal to the opposite party or his solicitor, all which to entitle the party to his appeal, must be done within thirty days from the day in which the decree in the county court was pronounced; no appeal shall be taken from a decree of any of the said county courts which order and direct the payment of money, either absolutely or conditionally, unless the party desiring to appeal from such decree, shall within the aforesaid thirty days enter into a bond with two good and sufficient securities, in a sum double the amount of the money directed or ordered to be paid by the decree, which bond shall be payable to the opposite party, and shall be conditioned for the payment to such opposite party of the sum or sums of money decreed by the county court to be paid, together with ten per cent damages on the amount so decreed to be paid, and all the costs of the appeal, in case the said appeal shall not be prosecuted to effect, or shall be dismissed, or the decree of the county court shall be confirmed by the Superior court, and no appeal shall be taken or entered otherwise than according to the aforesaid provisions, shall stay the issuing of process or the taking any other necessary proceedings upon any final decree of the said county courts, or any of them, or be valid to any other purpose whatsoever; It shall be the duty of the clerk of the court from which the appeal shall be taken to endorse on the memorandum of the taking of the appeal, the time of the filing of such memorandum, and to file the same with the other papers in the cause, and also to enter upon his docket the time at which said memorandum was filed.

Sec. 31. Be it further enacted, That upon taking an appeal as aforesaid it shall be the duty of the clerk of the county court, to deposit in the office of the clerk of the Superior court, all the pleadings, papers and documents in the cause with all the documentary evidence, and other testimony adduced in the cause, with a transcript of every interlocutory decree or order, and of the final decree pronounced therein: and the clerk of the Superior court shall thereupon enter the said appeal on the calendar of the said court for hearing at the ensuing term thereof.

if the decree
direct the pay-
ment of money

Bond and su-
rty.

Condition
thereof.

Duty of the
clerk of court.

Clerk of coun-
ty court to
send up papers
&c.

Clerk of Super-
ior court to
enter appeal

Sec. 32. Be it further enacted, That the rules of practice in the courts of equity of the United States as prescribed by the Supreme court thereon under the act of Congress of the eight day of May one thousand seven hundred and ninety two, where provision is not made by this act, shall be rules for the practice of the courts of this Territory when exercising equity jurisdiction, and whence the rules of practice so directed by the Supreme court, and the provisions of this act, do not apply, the practice of the courts, shall be regulated by the practice of the High Court of Chancery in England.

Rule of practice.

Sec. 33. Be it further enacted, That the Judges of the said courts shall in all cases, in which a commission for the taking of testimony out of the Territory shall be applied for, have power on the application of the solicitor of the opposite party to grant a greater time than ten days in which to file cross interrogatories, on good and sufficient cause shewn to the said Judges on oath by the said solicitor.

Time for filing cross interrogatories, may be extended.

Sec. 34. Be it further enacted, That previous to the granting of any injunction to stay proceedings at common law before verdict given or judgment rendered, the judges of the said courts shall require the party applying for such injunction, to enter of record his confession of judgment at common law, and his release of all errors at law in said judgment.

Confession of Judgment and release of errors at law

Passed 1st November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 7th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Concerning the appointment and jurisdiction of Justices of the Peace.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the county courts of the several counties in this Territory which have not hitherto laid off their respective counties into justices dis-

Justices districts to be laid off.

districts shall, at the next term of their respective courts, lay off their respective counties into districts not exceeding seven, and there shall reside in each district at least, one justice of the peace and one constable.

Judges of county court neglecting &c

Sec. 2. Be it further enacted, That if any judge or justice of the peace constituting the several county courts within this Territory, shall refuse or neglect to lay off the several counties into magistrates districts, and alter the same according to the provisions of this act, it shall be the duty of any grand juror within the county or district, to present to the Superior Court having jurisdiction of the same every such judge or justice, and if found guilty of such refusal or neglect by such court, every such judge or justice shall pay at the discretion of the court, a fine not exceeding fifty dollars, to be paid in the Treasury of the county of which he shall be judge or justice.

Alteration in districts, how made.

Sec. 3. Be it further enacted, That no alteration shall be made in the said districts after they are once laid off, unless on application of at least ten citizens, residing within the limits of the district that is prayed to be altered, which persons shall set up a written notice in three of the most public places within the district to be altered, particularly describing the line such alteration will produce.

Duty of the clerk of the county to record &c.

Sec. 4. Be it further enacted, That it shall be the duty of the clerks of the county courts in each and every county in this Territory, to describe particularly on the records of their respective courts immediately, the boundary lines of every district so laid off by the aforesaid county courts, as well as all alterations that may hereafter take place, and post a copy of the same at the door of their respective Courthouses within five days after such division or alteration shall have been made.

Not more than two Justices in a district.

Sec. 5. Be it further enacted, That the district lines and boundaries which shall have been regularly laid out and defined, or which may hereafter be laid out in any county in conformity to the laws of this Territory, shall form and compose a justices district, in which there shall reside one, and not more than two justices of the peace, except, in the cities of Pensacola, Tallahassee and St. Augustine.

Oath of Justice.

Sec. 6. Be it further enacted, That when any justice of the peace shall hereafter be appointed, he shall before he enters upon the duties of his office, take and subscribe an oath or affirmation before some other just-

ice of the peace, or some judge of a Superior or county court, to support the constitution of the United States, and to administer the laws to the best of his knowledge, skill and abilities without favor, partiality or prejudice; which oath shall be filed in the clerks office of the county court of the county for which he is appointed.

Sec. 7. Be it further enacted, That when any justice of the peace shall be appointed by the Governor, and there shall be no judge or justice of the peace convenient before whom he can take the oath or affirmation prescribed by law, it shall be lawful for such justice of the peace to take the oath or affirmation before any person named by the Governor.

Before whom taken.

Sec. 8. Be it further enacted, That the said justices of the peace shall hold a court once in every month in their respective districts when business may require it, upon some particular day in the month to be determined upon by the justice residing therein; and when there are two or more justices in one district, it shall be their duty to hold their courts at the same time and place, as near the centre of the district as may be convenient, and the said justices shall have power to adjourn their courts from day to day, so long as the business of the courts may require.

Sessions of their courts

Sec. 9. Be it further enacted, That the said justices shall be conservators of the peace throughout the counties for which they may be appointed respectively, and may issue warrants against persons violating the criminal laws of the Territory, and commit the offenders to jail, or recognize them to appear before the Superior Court of the county or district, at the next ensuing term thereof, to answer to any indictment which may be preferred against them, or discharge them from custody, according to the circumstances of the case, and may require surety of the peace when the same has been violated or threatened.

Power and duties.

Sec. 10. Be it further enacted, That the said justices of the peace shall also have and exercise within the limits of their respective districts, exclusive original jurisdiction in suits for the collection of all debts, dues and demands, where the amount sued for does not exceed the sum of fifty dollars, whether the same be liquidated or standing in open account, and final jurisdiction in the collection of all sums not exceeding ten dollars; but no justice of the peace shall entertain jurisdiction in any ac-

Jurisdiction limited to \$⁵⁰

tion for slander or assault and battery, false imprisonment or for trespass on lands.

Suit, how commanded. Sec. 11. *Be it further enacted,* That every suit brought to a justices court, shall be commenced by a summons issued by said justice in which the names of the parties, the nature and amount of the debt, and the time and place at which the defendant is required to appear and answer the plaintiffs demand shall be stated.

Summons how served.

Sec. 12. *Be it further enacted,* That the service of every summons issued by a Justice of the Peace shall be by delivering a copy to the defendant, or leaving it at his most notorious place of abode, at least ten days before the sitting of the court to which the same is made returnable, and in no instance shall bail be required of any defendant to a suit brought in a justices court.

Suits to be brought in the district in which defendant resides.

Sec. 13. *Be it further enacted,* That no person shall be liable to be sued in a justices court in any district other than the one in which he resides, except, in cases brought against two or more persons residing in different districts, in which case it shall be lawful for the plaintiff to commence his action in the district in which either of the defendants reside, and direct copies of the summons to be served upon the other defendants, requiring them to appear and answer to the action in the district in which it is brought; provided, that nothing herein contained shall be construed to prevent any suit being brought to the justices court, in a district adjoining the one in which the defendant resides, when there is no justice of the peace residing in the district in which the defendant resides.

Against Justices or Constable.

If Justices be interested &c.

Sec. 14. *Be it further enacted,* That whenever any person wishes to commence a suit against a justice of the peace or a constable, he shall be authorised to bring the same in any adjoining district to the one in which the said justice or constable resides.

Sec. 15. *Be it further enacted,* That it shall be lawful for the constable, when the justice of the peace in his district is interested in the case, or related to either of the parties, or shall refuse to act therein, to return the warrant and all other process in any such case before some other justice in said district, or in an adjoining district convenient to the defendant, and the justice shall take cognizance thereof and proceed thereon as in other cases to the same amount.

Sec. 16. *Be it further enacted,* That all bonds notes

or other instruments of writing within the jurisdiction of a justice of the peace signed by two or more persons, may be sued upon jointly or severally whether the same be joint, or joint and several, and a suit brought against one of said persons shall be no bar to a subsequent action brought against either of the others, unless the plaintiff has received full satisfaction for his debt or demand in the first or some other action brought upon said instruments.

Notes &c
signed by two
persons how
sued.

Sec. 17. Be it further enacted, That whenever any person shall make complaint upon oath, corroborated by the oath of at least one credible and disinterested witness, before any justice of the peace, that his or her debtor resides beyond the limits of this Territory, or is actually removing without the same or any county thereof, or absconds or conceals himself, or stands in defiance of a peace officer, so that the ordinary process of law cannot be served upon him, it shall and may be lawful, for the said justice to grant an attachment against the estate of such debtor, or so much thereof as shall be of sufficient value to satisfy the plaintiff's demand and costs; Provided, that the person applying for said attachment shall give bond and security payable to the defendant, in a sum double the amount of the debtor demand claimed, conditioned to pay all costs and damages which the defendant may sustain by reason of suing out said attachment, and which may be adjudged against him upon his failure to prosecute the same to effect.

Attachment
when granted.

Sec. 18. Be it further enacted, That said attachment when issued as aforesaid, shall be directed to, and levied by any lawful constable of the county upon the estate of such debtor, and it shall be lawful for said constable to summon any person, who may have in his or her hands or possession, any property belonging to the defendant, and who may be indebted to him, to appear at the court to be held in and for said justices district to which said attachment may be made returnable, there to answer upon oath what he or she is indebted, or what effects he or she had, in his or her hands or possession, or had at the time of levying said attachment belonging to said defendant, and the said court may by order compel such person to appear and answer as aforesaid; and when any person, who has been summoned as a garnishee as aforesaid deny on oath owing any money to, or having in his or her hands, any effects of such debt or it shall and

How directed
and served.

Garnishee.

of garnishee;
answer.

may be lawful for the plaintiff, his agent or attorney, to traverse such denial, and there upon an issue shall be made up and shall be tried by a jury as in other cases, and if found against the garnishee, he or she shall be subject to pay the plaintiff such sum as shall be so found and costs, and the court shall enter a judgment therefor and issue an execution accordingly.

**Attachment
shall be adver-
tised.**

Sec. 19. *Be it further enacted,* That every attachment issued as aforesaid by any justice of the peace, shall after the same has been levied, be advertised by the constable making said levy, at the place of holding courts in said district at least ten days before the sitting of the court to which the same is made returnable, and if any attachment shall be issued by a justice of the peace within ten days of the ensuing term of his court, the same shall be made returnable to the next term after the expiration of the said ten days.

**Replevin of
property at-
tached**

Sec. 20. *Be it further enacted,* That all property of every description whatever, levied upon by attachment as aforesaid, shall be repleviable by the defendants giving bond and security in double the amount of the debt or demand sworn to as aforesaid, payable to the plaintiff in attachment, and conditioned to be void if the defendant shall appear at the court to which the same is made returnable and abide by and perform the order of such court; and if any property of a perishable nature shall be levied on as aforesaid, and not be replevied by the defendant, his agent, or attorney the court may upon motion of the plaintiff order the same to be sold, and the money arising therefrom to be held by the officer selling the same subject to the satisfaction of any judgment which may be recovered by the plaintiff in his said attachment, and the surplus if any, after said judgment is satisfied shall be paid to the defendant, his agent or attorney; provided, that all sales of perishable property under attachment shall be made with the same formalities, as sales under execution.

**Property how
sold,**

Sec. 21. *Be it further enacted,* That all property levied upon by virtue of an attachment as aforesaid, and not replevied nor sold as perishable property before judgment, shall after judgment has been given, be sold in satisfaction of the same as though the same had been taken under an execution.

**Judgment on
replevin**

Sec. 22. *Be it further enacted,* That where the property has been levied upon and replevied as aforesaid,

and the plaintiff obtains a judgment against the defendant, the court shall enter the same against the defendant and his securities on the replevin bond, and issue execution accordingly, but the said securities shall be exonerated therefrom by delivering to the constable the property levied upon and replevied as aforesaid, nor shall the said securities be liable for any loss or damage to such property occasioned by casualty.

Sec. 23. *Be it further enacted*, That when any garnishee acknowledges himself indebted to any defendant in attachment, if the plaintiff shall establish his demand against the said defendant, it shall be the duty of the court to give him a judgment against said garnishee for the amount so acknowledged to be due or so much thereof as will be sufficient to satisfy said demand and costs, but no garnishee shall be liable for costs out of his own effects, except in cases where his return is traversed and adjudged against him.

Judgment against garnishee.

Sec. 24. *Be it further enacted*, That every justice of the peace shall keep a docket book, in which he shall make fair and accurate entries of all causes brought before him, with his judgment thereon, and shall also keep a book in which a minute of all executions shall be entered, in whose hands delivered, when returnable, the amount of the judgment and costs, and a copy of the return of the constable in separate columns, which docket shall be conclusive evidence of the matters therein contained.

Docket books to be kept by justices

Sec. 25. *Be it further enacted*, That the said justices respectively shall have power to fine and imprison for contempts offered to them while acting in their judicial capacity : Provided, that the fine shall in no case exceed the sum of five dollars, nor the imprisonment four hours.

Contempt

Sec. 26. *Be it further enacted*, That in all cases brought to a justices court, the best evidence the nature of the case will admit of shall be required, and in no instance shall either plaintiff or defendant be permitted to prove his or her account, by his or her own oath, without first taking an oath in writing, that he or she has no other evidence whereby to establish the same, within his or her power to procure, and if any plaintiff or defendant shall swear to his or her account agreeably to the provisions of this act, it shall be competent for the opposite party to deny the same on oath, and the court or

Evidence.

Party swearing to his or her account.

jury shall then decide, according to the weight and credibility of the testimony.

Sets off.

See. 27. *Be it further enacted*, That in case of mutual debts and sets off, the justice may give a judgment in favor of the defendant, provided it appears there is a balance due him or her and issue execution therefor as upon other judgements.

No written pleadings.

Sec. 28. *Be it further enacted*, That no written pleadings shall be required in any cause depending before a justice of the peace, but either party shall have the right to be heard by himself, his agent or counsel, as he may think proper.

Appearance term

Sec. 29. *Be it further enacted*, That if the defendant in any cause before a justice of the peace shall appear at the term at which the process shall be returnable, the trial shall be set for the next succeeding term, unless the parties shall consent to an immediate trial, but if the defendant shall fail to enter his appearance, judgment may be given against him by default; but for sufficient cause shewn upon oath, the justice may continue any cause at the instance of either party, not exceeding two terms.

Continuances.**Jury trial when demandable.**

Sec. 30. *Be it further enacted*, That either party, plaintiff or defendant, shall have the right to require a jury to decide upon his or her cause, provided, the amount in controversy shall exceed the sum of five dollars; and when a jury is required as aforesaid, it shall be the duty of the justice of the peace to direct the constable forthwith, to summons six disinterested persons, not of kin to either party, who shall be sworn to try the cause depending between the parties at variance and a true verdict give according to the evidence; and when the jury shall have returned a verdict in the cause the justice shall enter up judgment thereon agreeably to said verdict.

Subpoenas.

Sec. 31. *Be it further enacted*, That the said justices of the peace shall respectively, have the right to issue subpoenas for witnesses and commissions to take testimony by interrogatories, under the same rules, regulations and restrictions as are prescribed in taking of testimony in cases depending in the Superior or county courts; Provided, that whenever subpoenas for witnesses shall be issued by justices of the peace, the same shall be served by the constable; and provided also, that the fine against a witness for not attending under a subpoena issued by a justice shall in no case exceed the sum of twenty dollars.

Sec. 32. Be it further enacted, That all witnesses duly summoned and attending any justices court, who reside out of the district in which such court is held, shall be entitled to seventy five cents per day for their attendance, and all witnesses residing in the district and summoned as aforesaid shall be entitled to fifty cents each per day for their attendance; Provided, that there shall not be taxed in the bill of costs the expense of more than two witnesses to prove the same fact.

Pay of witnesses.

Sec. 33. Be it further enacted, That no person shall be permitted in any trial in said justices court to deny his bond, note or other instrument of writing for the payment of money, unless the same be denied on oath in writing; and the said court shall in all cases grant a new trial, upon good cause shewn.

Bond, note &c
to be denied
only on oath

New trial.

Sec. 34. Be it further enacted, That if either party shall be dissatisfied with the judgment of the justice of the peace in any cause tried before him, where the amount in controversy shall exceed the sum of ten dollars, such party may within three days after the adjournment of the court at which the said judgment was rendered, demand an appeal to the County court of the county, and it shall be the duty of said justices to grant said appeal upon the applicants paying the costs and giving bond and security for the eventual costs and condemnation money, and if the party applying shall succeed upon the trial of his appeal in the county court he shall recover the costs paid as aforesaid, from the appellee in said cause, to be taxed in the bill of costs in said county court.

Appeal.

Sec. 35. Be it further enacted, That when an appeal is taken from a justices court to the county court, it shall be the duty of the Justice of the peace from whose judgment said appeal was taken, to send up a true transcript of all the proceedings in the cause, certified under his hand and seal, to the clerk of said county court at least fifteen days before the ensuing term thereof; and it shall be the duty of the clerk of the said county court to docket the same in its regular order on the appeal docket of said court, and to issue a citation to the appellee notifying him of said appeal, which citation shall be served by the sheriff at least ten days before the first day of the term of said court.

Duty of justice
in appeal.Duty of clerk
county court.

Sec. 36. Be it further enacted, That no execution shall issue upon any judgment given by a justice of the peace, until after the expiration of three days from the time of

Execution.

~~Entering~~ said judgment, except, it be upon oath of the plaintiff that he or she is likely to lose his or her demand by such delay, and it shall be the duty of the justice to issue executions in all cases after the expiration of three days from the day of said judgment, unless otherwise directed by the successful party, as the case may be.

Sec. 37. Be it further enacted, That executions issued by justices of the peace, shall be directed "to all and singular the constables of the county," and shall have full force throughout the same, and if in any case it shall be necessary to send an execution to some county other than the one in which it was issued, to be levied upon the property of the defendant, it shall be the duty of the plaintiff or his agent, to present the same to a justice of the peace residing in the county to which the same is carried, and the said justice shall endorse thereon an authority to all and singular the constables of his county to levy the same, which shall possess the same force as if it had originally been issued by some justice of the peace of said county.

Sec. 38. Be it further enacted, That all judgments which may be obtained in any justices court shall be of equal dignity with judgments obtained in the Superior or county courts, and shall bind the property of the defendants from their dates respectively; Provided nevertheless, that no constable shall be authorised to levy on any slave or slaves, or real estate unless there is no other property to be found sufficient to satisfy the debt, then and in that case, they are hereby authorised to levy on the same wherever to be found, and deliver over the execution or executions to the sheriff of the county, with a return of the property levied on, who shall proceed to sell the same under such formalities as are prescribed for the sale of such property under execution from the Superior or county courts.

Sec. 49. Be it further enacted, That in all cases in justices courts, commenced against joint obligors or promissors, if any one or more of them shall make it appear to the satisfaction of the court, that he, she or they signed said obligation as security or securities only, it shall be the duty of the justice to enter up judgment against him, her or them as such, and award execution in the same manner, which when satisfied by said security or out of their property, he she or they shall have the control and benefit of said execution, for the purpose of re-

How directed,
from &c.

Dignity of
judgments.

Real estate or
slaves, how
levied on.

Joint obligors
or promisees:

thuncrating him, her or themselves out of their principal, in the same manner as if they had been security on an appeal; Provided, judgment and execution shall be against the principal also.

Sec. 40. *Be it further enacted*, That the magistrates in their respective districts may appoint their own constables, who shall before he enters upon the duties of his office, take and subscribe the following oath, before a Justice of the peace or Judge of the county court, "I do solemnly swear that I will faithfully perform all the duties required of me as constable for the county of _____ without partiality or oppression; to the best of my ability and understanding, so help me God:" and shall give bond and security payable to the Governor and his successors in office, in a sum not less than one hundred nor exceeding one thousand dollars, conditioned for the faithful discharge of the duties of his office, which security shall be approved by any two justices of the peace for the county or the Judge of the county court, and the said bond and oath shall be filed in the clerks office of the county court of the county for which said constable may be appointed.

Constables
how appointed

Oath.

Bond.

Sec. 41. *Be it further enacted*, That the said constables shall be permitted to serve processes and transact business, in any district in the county in which they respectively reside, but no constable shall be allowed greater fees for travelling than he would be entitled to, provided he resided in the district in which the said business is done, and in all cases the mileage shall be calculated from the place of holding courts in the district.

May serve
process in any
district.

Sec. 42. *Be it further enacted*, That it shall be the duty of the constables in the several counties, to serve all summonses and warrants, and levy all executions placed in their hands agreeably to the tenor thereof, and to make due returns of the same to the court to which they may be made returnable; and if any constable shall fail to pay over money collected by him on any execution or other process, to the person entitled to receive the same on demand, he shall be liable to a penalty of twenty five per cent upon the amount so collected for such failure, and it shall be the duty of the justice of the peace, who issued said execution or other process, at the ensuing term of his court, upon application of the plaintiff and upon his making it appear that said constable has received the amount of said execution or other process, or any

Duty of con-
stables.

Failing to pay
over money.

part thereof, and has failed to pay over the same on demand, to issue an execution against said constable and his securities for the same, together with the penalty herein prescribed, which execution shall be levied and the money raised by some other constable of the county, out of the property of said defaulting constable and his securities.

Executions in force for 12 months.

Sec. 43. *Be it further enacted,* That all executions issued by justices of the peace shall continue in full force for the term of twelve months from their date respectively, unless sooner satisfied, and when any constable shall return an execution after the expiration of twelve months from its date unsatisfied, it shall be the duty of the justice presiding in the district in which the same is returned, to renew the same upon the application of the plaintiff, but the constables shall, in all cases collect the money on executions as soon as it is practicable after they receive them, unless differently instructed by the plaintiff; and any constable failing to collect the amount of any execution placed in his hands, (unless otherwise directed by the plaintiff) may be proceeded against by motion before the court of the district from whence said execution issued, and if it appears upon the trial of said motion, that due diligence had not been used by said constable in the collection of the money due on said execution, it shall be the duty of said court, to give a judgment against said constable and his securities for the amount of said execution, together with ten per cent damages thereon, upon which judgment, execution shall forthwith issue.

Affidavits of illegality and claims.

Sec. 44. *Be it further enacted,* That in all cases of affidavits of illegality to executions issued by justices of the peace, and in all cases of claims to property arising under levies made by virtue of any execution or process from a justices court, the same shall be returned to, and determined upon at the justices court under the same rules, regulations and restrictions as are prescribed for the trial of similar cases in the Superior and County Courts.

Service of process by private person.

Sec. 45. *Be it further enacted,* That in cases of emergency it shall be lawful for any justice of the peace, to direct any warrant, and other processes to any person appointed by him to serve such process, and the service by such person shall be as valid, as if made by a constable duly appointed and qualified.

Sec. 46. Be it further enacted, That no *ca. sa.* shall be issued against any defendant by a justice of the peace, nor, shall any person be deprived of his liberty by any civil process emanating from a justices court.

Ca. sa.

Sec. 47. Be it further enacted, That constables hereafter to be appointed, shall be entitled to hold their offices for the term of two years unless sooner removed according to law; Provided however, that it shall be lawful at any time for two justices or the judge of the County Court to remove any constable from office for good cause shewn.

*Constable,
duration of
office.*

Sec. 48. Be it further enacted, That hereafter whenever any justice of the peace shall retire or be removed from office, it shall be his duty to turn over to his successor all the dockets and papers relating to his office, and it shall be the duty of the succeeding justice to close the unfinished business commenced by his predecessor, and if any justice of the peace shall fail to turn over his dockets and papers as aforesaid, he shall be liable to an action at the instance of any person injured thereby; and if there be no justice of the peace appointed for the district from which the said justice retires or is removed from office, it shall be his duty to turn them over to some justice of the peace in an adjoining district, who shall act upon the same until there shall be an appointment made for the district left vacant by such resignation or removal; and where any justice of the peace shall die, it shall be the duty of his executor or administrator, to turn over all the papers and dockets of his office as aforesaid.

*Justice hand
over papers to
successor,*

Sec. 49. Be it further enacted, That hereafter, whenever any constable resigns or is removed from office, it shall be his duty to deposit all his papers and unfinished business in the court to which the same is made returnable, and if any constable going out of office shall fail to deposit his papers and unfinished business as aforesaid, he and his securities shall be liable to the action of any person injured by such failure; and if any constable shall die, it shall be the duty of his executor or administrator to deposit his papers as aforesaid, and the justice of the peace in whose court the said papers and unfinished business are deposited, shall cause the same to be acted upon and closed by another constable of said county.

*Constable to
deposit papers
&c: with jus-
tice.*

Sec. 50. And be it further enacted, That in all cases where a judgment by confession shall be given before

*Judgment by
confession.*

a justice of the peace, the party confessing judgment shall be debarred the right of appeal to, and a writ of error or of certiorari shall not lie, from the county court in such case.

Passed November 18th 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved, November 21st 1828.

WM. H. DUVAL,

Governor of the Territory of Florida.

AN ACT

Concerning limitation of Actions.

Writs of for-
medon.

Right of entry.

Saving to in-
fants, *feme
covert &c.*

Wrts of right
on seizen of
ancestor.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all writs of formedon in descender, remainder or reverter, of any lands, tenements or hereditaments whatsoever, hereafter to be brought upon any title or cause heretofore accrued or which may hereafter fall or accrue, shall be sued out withiu twenty years next after such title or cause of action accrued, and not afterwards; and that no person or persons who now hath, or have, or hereafter may have any right or title of entry into any lands, tenements or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such persons shall be barred from any entry afterwards.

*Sec. 2. Be it further enacted, That if any person or persons entitled to such writ or writs, or to such right or title of entry as aforesaid, shall be or were under the age of twenty one years, *feme covert, non compos mentis*, imprisoned or not within this territory, at the time of such right or title accrued, or coming to them, every such person, and his or her heirs shall and may, notwithstanding the said twenty one years are or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards.*

Sec. 3 Be it further enacted, That in all writs of right and other actions possessory, any person may maintain a writ of right upon the possession or seizen of his

ancestor or predecessor within fifty years; or any other possessory action upon the possession or seizen of his or her ancestor or predecessor, within forty years next before the teste of writ; but no person shall maintain a real action upon his own possession or seizen, but within thirty years next before the teste of the writ.

On party's own
seizen.

Sec. 4. Be it further enacted, That all actions of trespass, *quare clausum fregit*, and all actions of trespass, detinuc, actions *surtrover*, and replevin for taking away of goods and chattels; all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants; all actions of assumpsit or debt grounded upon any lending or contract without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought, shall be commenced and sued within the time and limitation hereafter expressed, and not after, that is to say, the said actions upon the case other than for slander, and the said actions for account and the said actions for trespass, debt, detinuc and replevin, for goods and chattels, and the said actions of trespass *quare clausum fregit*, within five years next after the cause of such action or suit, and not after, and the said actions of trespass, assault, battery, wounding, imprisonment or any of them, within three years next after the cause of such actions or suits, and not after; and the said actions upon the case for words, within one year next after the words spoken, and not after.

Actions of
trespass &c.

Assumpsit or
debt.

Of assault &c.

Limitation.

Sec. 5. Be it further enacted, That all actions or suits founded upon any account for goods, wares or merchandize sold and delivered, or for any article charged in any book account, shall be commenced and sued within two years next after the arising of the cause of such action or suit, or the delivery of such goods, wares and merchandize, and not after, except, that in the case of the death of such creditors or debtors before the expiration of the said term of two years, the further time of two years from the death of such creditor or debtor shall be allowed, for the commencement of such actions or suit.

Actions of
book account.

Sec. 6. Be it further enacted, That to prevent impositions or deception herein, the respective time or date of the delivery of the several articles charged in any such account, or any receipt taken for the delivery of

Penalty on
post dating ac-
count.

them, shall be particularly specified; and if any merchant or trader shall wilfully post date any article or articles in such account, or the receipt taken for the delivery of them, he shall forfeit and pay tenfold the amount of the article or articles so post dated, to be recovered with costs by warrant, where the penalty does not exceed twenty dollars, and by action of debt in any court of record, where the penalty shall exceed that sum.

Sec. 7. Be it further enacted, That to prevent any doubt in the construction hereof, it is hereby declared that the beforementioned limitation of two years, shall take place and be computed from the respective dates or times of delivery of the several articles entered or charged in any such account; and that all such articles as shall have been of more than two years standing, when the action or suit was commenced, shall be disallowed and rejected, and verdict shall be given or judgment rendered for no more than the amount of such articles as appear to have been actually charged or delivered within two years next before the commencement of the suit as aforesaid.

Sec. 8. Be it further enacted, Provided nevertheless, That if in any of the said actions or suits, judgment be given for the plaintiff, and the same be afterwards reversed by error, or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, in all such cases the party plaintiff, his heirs, executors or administrators (as the case shall require) may commence a new action or suit from time to time within one year next after such judgment reversed, or such judgment given against the plaintiff and not after.

Sec. 9. Be it further enacted, That if any person or persons that is or shall be entitled to any such actions of trespass, detinue, actions *sur trover*, replevin, actions of account, actions of debt, actions of trespass for assault, menace, battery, wounding or imprisonment be, or shall be at the time of any such cause of action given or accrued, fallen or come, within the age of twenty one years, *feme covert, non compos mentis*, imprisoned, beyond the seas, or out of the country, that such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited, after their coming to, or being of full age, discon-

Computation
of time, how
made.

When judg-
ment is re-
versed, further
time allowed.

Saving in fa-
vor of infants.

zeit, of sane memory, at large, and returned from beyond the seas, or from without this country, as by other persons having no such impediment, -should be done.

Sec. 10. Be it further enacted, That all suits hereafter brought in the name or names of any person or persons, residing beyond the seas or out of this country, for recovery of any debt due for goods actually sold and delivered here, by his or their factor or factors, shall be commenced and prosecuted within the time appointed and limited by this act for bringing the like suits, and not after, notwithstanding the saving herein before contained to persons beyond the seas at the time of their causes of action accrued: Provided nevertheless, that if any factor shall happen to die before the expiration of the time in which suit should have been brought, such principal shall be allowed two years from the death of such factor to commence and prosecute his, her or their action for any debt due to him, her or them on account of any contract or dealing with such factor.

Sec. 11. Be it further enacted, That if any person or persons, defendant or defendants, to any of the aforesaid actions, shall abscond or conceal themselves, or by removal out of the country, or the county where he or they do or shall reside, when such cause of action accrued, or by other indirect ways and means, defeat or obstruct any person or persons who have title thereto, from bringing or maintaining all, or any of the aforesaid actions within the respective times limited by this act, that then and in such case, such defendant or defendants are not to be admitted to plead this act in bar to any of the aforesaid actions, any thing in this act in any wise to the contrary notwithstanding.

Sec. 12. Be it further enacted, That if any suit be brought against any executor or administrator, or other person having charge of the estate of a testator or an intestate, for the recovery of debt due upon an open account, it shall be the duty of the court before whom such suit shall be brought, to cause to be expunged from such account every item thereof, which shall appear to have been due five years before the death of the testator or intestate; saving to all persons, *non compos mentis, fomes ecerit*, infants, imprisoned, or out of this Territory, who may be plaintiffs in such suits three years after their several disabilities shall be removed; and if any person shall wilfully post date any such account, he shall forfeit

When plaintiff
resides beyond
seas.

Limitation.

Proviso.

Defendants
absconding.

Suits against
executors &c.

Saving to in-
fants &c.

and pay tenfold the amount of the articles so post dated, to be recovered in any court of record, where the penalty incurred shall exceed twenty dollars, and by warrant before a justice of the peace where the penalty incurred, shall not exceed that sum.

Actions of debt against executors and administrators.

Sci. fa.

Limitation.

Saving to infants &c.

Sec. 13. *Be it further enacted,* That no action of debt shall be brought against any executors or administrator, or other person having charge of the estate of a testator or intestate, upon a judgment obtained against his testator or intestate, nor shall any *scire facias* be issued against any executor or administrator, or other person having charge of the estate as aforesaid, to revive such judgment after the expiration of five years from the qualification of his executor or administrator, or of such other person having charge of the estate, and all such judgments after the expiration of five years upon which no proceeding shall have been had, shall be deemed to have been paid and discharged, saving to all persons *non compos mentis, feme covert, infants, imprisoned or out of this Territory*, who may have been entitled to the benefits of such judgments three years after these several disabilities shall be removed.

Passed 4th November, 1828.

PETER ALBA.

President of the Legislative Council

THOS. MUNROE, Clerk.

Approved November 10th 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Concerning Executions.

Writs of fieri facias, when issued.

when issued instantaneously.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the clerks of the several courts of this Territory, to issue writs of *fieri facias* upon all judgments awarded by the courts of which they are clerks respectively; Provided, that in no instance shall they issue any writs of *fieri facias* until after the expiration of five days from the adjournment of the court at which the judgment was given, unless the party in whose favor it was rendered, his a-

gent or attorney shall make oath, that he believes that the defendant will remove his property from the Territory before the same can be levied on in the usual manner, then and in that case it shall be lawful for an execution to issue instanter.

Sec. 2. *Be it further enacted,* That any person having a right to any execution from any court of record in this Territory, may order the same to be directed to the Marshal Sheriff or other officer of any county in this Territory returnable in thirty days, if to be levied upon personal property other than slaves, or if upon slaves, lands or tenements in two months, as such person either by himself or attorney by written memorandum left with the clerk of any such court shall direct, and if the return upon any execution shall be "Executed," but not time to sell, then a *venditioni exponas* shall be issued by the clerk of course and without order; Provided, that if no direction as to the return of the execution shall be given, by the party or his attorney the execution shall be returnable to the next term of the court from which the same was issued.

Sec. 3. *Be it further enacted,* That when the return on any execution shall be "not satisfied," the party in whose favor it issued shall have power to take out another execution at his own costs, and where part of the debt shall be made, the party may take out execution for the residue.

Sec. 4. *Be it further enacted,* That all executions shall be issued and signed by the clerks of the several courts in which judgments shall be obtained, and bear teste in the name of the Judge of said courts, and bear date from the time of issuing, and shall be directed to all and singular the Marshals or Sheriffs (as the case may be) of this Territory, and may be levied upon the estate both real and personal of the defendant or defendants, which execution shall be of full force throughout the Territory: And when the defendant shall point out any property in the hands, possession or control of any person not a party to the judgment, and shall require the marshal sheriff or other officer to levy the execution thereon, such request shall not be complied with, if there shall be sufficient other property in the hands and possession of the defendant in the execution to satisfy the same, but the marshal sheriff or other officer shall proceed to levy on such property so found in the hands of the defendant, who

How directed,
and when re-
turnable.

Alias writ
when issued.

How issued,
signed and
tested.

How levied.

shall nevertheless be at liberty to point out what part of his property he shall prefer to be first levied upon, which the marshal sheriff or other officer shall be bound to take and sell first, if the same in his opinion be sufficient to satisfy the execution : Provided, that if a party shall fail to point out what part of his property the execution shall be levied upon, in that case, in levying execution the officer shall observe the following course, first, to levy on the goods and chattels excepting slaves, and if none are to be found then upon the slaves and finally on the lands and tenements.

No ca. sa. to issue.

Sec. 5. Be it further enacted, That in no case shall a *capias ad satisfaciendum* be issued by the clerk upon judgment of the court nor shall the body of any defendant be subject to arrest or confinement to enforce the payment of money, except it be for fines imposed by lawful authority.

Sales, how advertised and made.

Sec. 6. Be it further enacted, That no sale of goods or chattels taken in execution shall be made by any Marshal, Sheriff or other officer, unless the same shall have been previously advertised at least twenty days at three public places in the county ; and all marshals and sheriff's sales be before the court house on the first Tuesday in the month, and between the hours of ten in the forenoon and three in the afternoon.

Sales of lands or slaves, now made.

Sec. 7. Be it further enacted, That no sale of lands or tenements, or slaves levied upon by virtue of any execution shall take place unless the same shall have been advertised for six weeks in some public newspaper published in the county where the sale is to be, if there shall be one, if not, in some newspaper published in the district; and the expense of such publication shall be included in the bill of costs.

Replevin of property levied on.

Sec. 8. Be it further enacted, That when property shall have been levied upon under an execution, the defendant may replevy the same by giving to the Marshal Sheriff or other officer who made the levy, a bond with good security, conditioned for the forthcoming of the property on the day of sale, and if the property be not delivered according to the terms of the bond, it shall be the duty of the clerk to issue a new execution against the defendant and the securities of his bond which may be levied upon the property of all or either of them, and upon which there shall be no replevy.

Manner of sales of lands.

Sec. 9. Be it further enacted, That whenever a tract

or land shall be sold on execution, it shall be the duty of the officer appointed to sell the same, to ascertain the amount of the judgment and costs upon which the same is to be sold, and give public notice thereof to the bye standers, whereupon if any person offer to pay the amount of said judgment and costs, and receive a less number of acres than the whole tract of land levied on, it shall be lawful for the said officer to cry the proposal so made as aforesaid, and if any other person propose to take still a less number of acres, the said officer shall in like manner receive the bid or proposal of the said other person, and so on, until such part of said land as it may be necessary to sell shall have been sold; and any purchaser of land under this section, who shall have paid the purchase money as is hereinafter directed, and received the deed of the Sheriff for the same, shall be entitled to proceed to the partition thereof in the same manner, as though the said purchaser and the said defendant in execution were joint tenants, in common or coparceners.

under execu-
tion.

Sec 10. Be it further enacted, That the partition of said land shall be so made as to set off to the said purchaser, the number of acres by him agreed for in a body, having regard to the general quality of said tract of land.

Partition of
lands so sold.

How made
&c.

Sec. 11. Be it further enacted, That if no person on the day of sale propose in manner aforesaid, to take a less number of acres than the whole tract levied on, and to bid the amount of said judgment and costs for the same, the said tract of land shall be exposed to sale, and together with its appurtenances struck off to the highest bidder; and should the said land sell for a larger sum than is sufficient to satisfy the execution or executions and costs, the overplus shall be delivered by the Marshal, Sheriff or other officer to the defendant or defendants in execution.

The whole
tract of land,
when to be
sold.

Sec. 12. Be it further enacted, That whenever a sale shall be made of any lands, tenements or slaves in virtue of an execution as aforesaid, the Marshal, Sheriff or other officer shall on payment of the purchase money, execute a deed of conveyance or bill of sale for the same.

Conveyances
to be made by
officer selling.

Sec. 13. Be it further enacted, That when an execution shall have been levied less than twenty days before the return day, the Marshal, Sheriff or other officer shall return the same, and take out a *venditioni expo-*

If levy be not
made in suffi-
cient time,

~~laws~~, and proceed to sell by public auction, the goods and chattels, lands and tenements so taken, according to the provisions of this act.

Property how bound by judgment

Sec. 14. *Be it further enacted*, That in all cases the judgments of the courts of this Territory shall bind real property, from and after the time of the rendition of such judgment; but personal property shall in no case be bound in consequence of such judgments, until levy of execution shall be made thereon pursuant to such judgments.

Garnishee process on judgments when issued

Sec. 15. *Be it further enacted*, That if upon any execution the Marshal, Sheriff or other officer shall return nothing to be found, and the plaintiff in execution shall in open court make affidavit, that to the best of his knowledge and belief, any person or persons, to be by him in said affidavit named, is or are justly indebted to, or hath or have any of the property of the defendant in execution in his or her or their possession or control, then and in that case, it shall and may be lawful to award the garnishee process, as provided in the attachment act, and have the same proceedings thereupon, so far as the same can be applied against such garnishee or garnishees.

If defendant disclaim, Officer may require an indemnification.

Sec. 16. *Be it further enacted*, That when an execution shall be levied upon real or personal property pointed out to, and required to be sold by the officer, by the person in whose favor the execution has issued, and the defendant in execution shall disclaim all right, title and interest in or to such property, or shall at the sale thereof forwarn all persons not to purchase said property, in either case, it shall and may be lawful for the officer to require of the plaintiff in execution an indemnifying bond in double the amount of the execution, conditioned to answer all costs and damages which may be awarded against him the said officer for proceeding to sell the property so disclaimed.

Affidavit of illegality.

Sec. 17. *Be it further enacted*, That in all cases where an execution shall issue illegally, and the person against whom such execution is issued shall make oath thereof, and shall state in his affidavit the causes of such illegality, the marshal, sheriff or other officer shall return the same to the next term of the court from which the same issued, and the court shall determine thereon at such term: Provided, that in no instance shall the marshal, sheriff or other officer receive a second affidavit of il-

legality in the same case, and provided also, that when the defendant acknowledges a part of the execution to be legally due, he shall pay the amount so acknowledged to be due, before his affidavit of illegality to the remainder shall be received.

Sec. 18. Be it further enacted, That when any marshal, sheriff or other officer shall levy on property which shall be claimed by any other person, not a party to the attachment, execution or other process, by virtue of which the levy was made, such person shall make oath to such property, and it shall be the duty of the officer making the levy as aforesaid to postpone any other or further proceedings under said levy, until the right to said property shall have been determined; Provided, the person claiming such property, his agent or attorney shall give bond to the marshal, sheriff or other officer with security in a sum equal to double the amount of the execution or other process, conditioned to re-deliver the said property upon demand to said officer, if the same shall be adjudged subject to said execution or other process, and to pay to the plaintiff all damages which the jury on the trial of the right of property may assess against him, in case it appear that such claim was interposed for the purpose of delay.

Sec. 19. Be it further enacted, That when an execution or other process has been levied, and a claim to the property interposed as aforesaid, it shall be the duty of the officer making the said levy, to return said execution or other process to the next term of the court from whence it issued, together with said affidavit and bond, and it shall be the duty of the plaintiff and claimant to make up an issue thereon, which shall be tried by a jury at the same term, unless the court for sufficient cause shewn upon oath shall continue it; and every juror on the trial of such claim shall be sworn in addition to the oath usually administered to jurors in civil cases, to give to the plaintiff against the claimant, such damages not less than ten per cent, as may seem reasonable and right, provided, it shall appear that the claim was interposed for delay.

Sec. 20. And be it further enacted, That when a claim has been interposed to any property levied upon by any officer as aforesaid, the plaintiff in execution or other process shall have the right, either to dismiss the levy and order a new levy on other property, or to try the

Claim of property by third person.

Claimant to give bond a surety.

Condition.

Officerlevying to return claim

To be tried at the first term.

Oath of jury.

Plaintiff may dismiss levy.

right of property already levied upon as aforesaid.

Advertisement
of sale &c.

Sec. 21. *Be it further enacted,* That the advertisement of any sale required by this act, shall comprehend a full and complete description of the property, and the name of the defendant, and the name of the person in whose possession the property may be; Provided nevertheless, that a sale may be made on any other day or place by consent of the defendant; and provided, the sheriff or marshal shall give the plaintiff ten days notice of such sale, and any sale may be postponed from day to day, or from one sale day to another.

Property ex-
empt from ex-
ecution.

Sec. 22. *Be it further enacted,* That all actual *bona fide* house-keepers with a family shall have exempt from execution, attachment or distress, such portion of his or her property, (exclusive of wearing apparel) as may be necessary for the support of such family; Provided that the same shall not in any case exceed the sum of one hundred dollars.

How selected
&c.

Sec. 23. *Be it further enacted,* That the property to be exempt as aforesaid, shall be selected by the person claiming the exemption, but shall in all cases include the necessary implements of husbandry and the household utensils of such family or so much thereof as shall be required for the use of the family as aforesaid.

Appraisers to
be sworn.

Sec. 24. *Be it further enacted,* That the officer attempting to levy any execution or attachment, when the property is claimed to be exempt under this law, shall summon three disinterested persons, who shall take an oath to appraise so much of the property herein allowed to be exempt, according to its true value, as may be necessary for the support and sustenance of said family: Provided, the same shall not exceed one hundred dollars as aforesaid.

To be consid-
ered the pro-
perty of the
wife &c.

Sec. 25. *Be it further enacted,* That all property which is claimed as being exempt from execution, attachment or distress by virtue of this act, shall from the time of the interposition of such claim be held and considered as the property of the wife and children, or either of such persons, and shall not thereafter be subject to the payment of his debts, or, in any other way to be disposed of by him.

Working tools
and books ex-
empt.

Sec. 26. *Be it further enacted,* That the working tools of persons engaged in mechanical pursuits, the books pertaining to the profession of professional men, and all

military equipments shall be exempt from levy or distress.

Sec. 27. Be it further enacted, That if the Marshal, Sheriff or other officer shall fail or refuse to pay over any money collected by him in virtue of his office, to the plaintiff or other person duly authorised to receive the same, upon demand, he shall be liable to pay the same, with twenty five per cent damages thereon, from the time of collection until finally paid, and the person entitled to receive the same, his agent or attorney is hereby authorized upon giving the Marshal, Sheriff or other officer three days previous notice, to move the court at the ensuing term thereof, for a rule against said officer and his securities for the amount of the money collected by him, and the damages aforesaid.

Officer failing
to pay over
money collect-
ed.

Sec. 28. Be it further enacted, That it shall be the duty of the Marshals and Sheriffs of the several courts to keep execution dockets, upon which they shall enter all executions received by them, and the times at which they were received, together with all their actings and doings thereon, and keep the same in court every day during each session thereof, for the inspection of all persons interested therein.

Officers shall
keep execution
dockets.

Passed November 18th 1828.

PETER ALBA,
President of the Legislative Council.
THOS. MUNROE, Clerk.

Approved, November 21st 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.



AN ACT

Concerning Depositions.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That where any witness resides out of the Territory, or out of any county in which his testimony may be required in any cause, or is bound on a voyage to sea, or is about to go out of the Territory and remain until after the trial of such cause, or is very aged or infirm, it shall be lawful for either party on giving reasonable notice to the adverse party, or his, her

In what cases,
witnesses, may
be examined
by commission.

or their attorney, accompanied with a copy of the interrogatories intended to be exhibited to the witness, to obtain a commission from the clerk of the court in which the same may be required, directed to certain commissioners, not less than two, to examine all and every such witness or witnesses on the interrogatories thereto annexed; and the said commission shall be attached to the interrogatories by the clerk issuing the same, and shall be signed and bear teste as other writs.

Sec. 2. Be it further enacted, That the following shall be the form of commissions to take testimony:

Territory of Florida, }
 County. } By his honor _____
 _____ Judge of the _____ Court of
 the District or county, as the case may be,) to _____
 _____ Esquires greeting: Whereas there is
 a certain controversy now depending in the _____
 Court for said county, between _____
 and _____ and whereas
 are material witnesses in said matter of controversy, and
 cannot attend our said court in person, without manifest
 inconvenience.

NOW, KNOW YE, That we, reposing special trust
 and confidence in your prudence and fidelity, have ap-
 pointed you, and you, or any two of you, are hereby au-
 thorised and required to cause the said _____
 personally to come before you, and after
 being duly sworn to examine him, them or either of
 them concerning the said matter of controversy, agreeably
 to the interrogatories hereunto annexed; and the
 answers to the same being plainly and distinctly written,
 you are to send the same closed up under your hands
 and seals to our said court, to be held on the _____
 day of _____ next, together with this writ.
 Witness the Honorable _____
 Judge of said Court this _____ day of _____
 A. D. _____ and of the Independence of the
 United States, _____

May issue in
 blank to com-
 missioners, but
 not for witnes-
 ses.

Sec. 3. Be it further enacted, That the clerks in issuing commissions may leave the place for the names of the commissioners blank, to be filled up by said commissioners; but the names of the witnesses to be exam-

and must be distinctly specified in the interrogatories and commission.

Sec. 4. Be it further enacted, That packets containing commissions, interrogatories and answers may be returned to the court by a party in the cause, or any other person, or by mail; and to entitle the party to open the packet, if returned by himself or any other person, the person so returning it must make oath in open court if returned in term time, or before the clerk if returned in vacation, "that he received the said packet from one of the commissioners, that it had been in possession ever since and has not been opened or altered;" and if returned by mail, the post-master, his deputy or assistant at the office where the said packet is deposited, to be sent by mail, must endorse thereon, "received from one of the commissioners, to be forwarded by due course of mail;" and the post-master, his deputy or assistant at the office to which said packet is conveyed, must endorse thereon, "received by due course of mail :" Any person taking said packets, other than the clerk of the court, from the post-office must when he delivers it in court or to the clerk swear, "that he received it from the post-master, his deputy or assistant, that it has been in his possession ever since, and has not been opened or altered."

Commission
how returned
to the court

Party when
entitled to
open it.

Sec. 5. Be it further enacted, That commissioners when they enclose the interrogatories, answers and commission to be returned to the court, shall write their names across the seals of the envelope, and give the packet such direction as will enable the court to know that it was intended for the court, and applicable to some particular cause therein; and the usual abbreviations or initials of office, or the christian names of the commissioners, post-masters, magistrates, clerks, attorneys and witnesses shall be deemed sufficient; when interrogatories and answers have been returned, they may be opened by order of court, or consent of the parties, which consent shall be endorsed on the envelope, and they shall remain with the clerk subject to the inspection of either party.

Directions to
commissioners

Commissions
may be opened
by order of
court, or con-
sent.

Sec. 6. Be it further enacted, That if any party in any suit at common law, or in chancery shall make oath, that he or she verily believes, that his or her claim or defense, (as the case may be) or a material part thereof depends on a single witness, the court if in term time or

Depositions,
de bene esse.

the clerk in vacation, may award a commission to take the deposition of such witness *de bene esse*, altho' he or she be not about to depart the country, nor under any disability, the party in such case giving reasonable notice of the time and place of taking such deposition to the adverse party.

Sec. 7. Be it further enacted, That if any will shall be produced to any court having jurisdiction in the case of such will for probate, and any witness or witnesses attesting the same shall reside out of this Territory, it shall be lawful for such court to issue a commission or commissions annexed to such will, and directed to any Notary Public, judge of a court of law, Mayor or justice of the peace, or to such other person or persons as by the laws of the country where such witness or witnesses may be found, are duly authorised to administer an oath, empowering him or them to take and certify the attestation of said witness or witnesses: If the person to whom such commission shall be directed shall duly certify, that the witness or witnesses personally appeared and made oath or affirmation, as the case may be, that the testator signed and published the writing annexed to such commission as his or her last will and testament, and that he, she or they subscribed their names thereto in his, or her presence and at his or her request, such oath or affirmation shall have the same operation, and the will shall be recorded in like manner, as if such oath or affirmation had been made in the court whence the commission issued.

*Notice when
one party re-
sides out of
the Territory.*

Sec. 8. Be it further enacted, That when any commission shall be obtained to take the deposition of a witness in a suit depending in any of the courts of this Territory, where the plaintiff or defendant in such suit doth not reside within the Territory, or hath not an attorney within the same to whom notice of the time and place of taking such deposition can be given, then the person obtaining such commission having published in some newspaper printed in this Territory, four weeks successively, the time and place, when and where the witness is to be examined, and the name of the witness together with the names of the parties to the suit in which such witness is to be examined, it shall and may be lawful for any plaintiff or defendant as aforesaid, to proceed to take any deposition authorised by the commission issuing from the court agreeably to law, where the suit depends

as aforesaid: and such deposition when taken shall be allowed to be read as evidence in the same manner and under the like restrictions, as if notice had been personally served upon the opposite party.

Sec. 9. Be it further enacted, That if any person or persons shall give a notice to take deposition or depositions, and shall fail to take or cause the same to be taken, the party notified if attending agreeably to the notice, shall be entitled to receive four cents for every mile that he shall necessarily travel in going to and returning from the place assigned to take the deposition or depositions, to be allowed by the court where the suit is depending, and for which execution may issue according to law; Provided, that the provisions in this section shall not be extended to any case where the failure to take the deposition or depositions shall arise from the non attendance of the witness or witnesses, or any unavoidable cause, and the oath of the party shall be admissible to enable such party to obtain the benefit of this proviso.

Party failing
to take deposi-
tion after no-
tice.

Passed November 17th, 1828.

PETER ALBA.

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 21st 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.



AN ACT

For the apprehension of criminals and the punishment of crimes and misdemeanors.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That where any complaint shall be made upon affidavit before any justice of the peace, of any offence committed against the laws of this Territory or the laws of the United States, it shall be his duty forthwith to issue his warrant to any constable of the county or to the sheriff, or to the marshal of the United States, in case the said Justice should deem the complaint of an important nature, commanding the said constable, sheriff or marshal forthwith to arrest the offender, and bring him, her or them before the said

Justices of the
peace, to issue
warrants on
complaint.

May hold to
bail.

Justice, expressing in said warrant the nature of the offence; when the offender or offenders shall be arrested and brought before the justice, if the offence charged against the prisoner be merely a misdemeanor, and the justice be satisfied that there is good ground to hold him to bail, the said justice shall take his bond with one or more securities for his appearance at the next Superior court; but if he fail to enter into the said bond, the justice shall commit the prisoner to prison.

Affidavit to
state particu-
lars of offence.

Sec. 2. *Be it further enacted,* That when any affidavit shall be made before any justice of the peace of any offence committed, he shall require that the affidavit contain as particularly as can be done, the nature of the offence and the circumstances attending its commission, and in cases of larceny a particular description as nearly as can be made of the article or articles stolen, and the value of each separately, and the names of all the witnesses and their places of abode, and those whose testimony shall be deemed important shall be bound to appear before the court where the trial is to take place to testify, but bail for the appearance of any witness shall not be required; a witness however may be committed to prison if he will not enter into a bond to appear:

Commitment
for want of
bail.

Sec. 3. *Be it further enacted,* That whenever any criminal case occurs before a justice of the peace if it be not bailable, or if the prisoner cannot give satisfactory bail, the justice shall make out a commitment to a constable or other officer requiring that the prisoner be taken to jail, and there detained until discharged by due course of law; and the commitment shall express the nature of the offence, and upon whose oath or affirmation the prisoner has been accused and arrested.

Judges of Su-
perior court to
be conserva-
tors of the
peace &c.

Sec. 4. *Be it further enacted,* That the Judges of the Superior courts respectively shall *ex officio* be justices and conservators of the peace, and have and exercise, whenever they may deem it fit and proper, all the duties and powers of justices of the peace in criminal cases, and shall have power and authority if they see fit to admit prisoners to bail where it may have been refused by any of the justices of the peace.

Papers, to be
kept in good
order

Sec. 5. *Be it further enacted,* That it shall be the duty of the several justices of the peace and Judges acting as such, to keep all papers relating to criminal matters in good order and on file in their offices separate and distinct from papers concerning civil causes, and to hand

over to the public prosecutor at least ten days before the meeting of every court all affidavits, depositions and bonds taken in any and every criminal case.

Sec. 6. Be it further enacted, That each of the said justices shall have power to punish for contempt committed before him in the exercise of his judicial functions, or sitting as a committing magistrate, by a fine not exceeding five dollars and imprisonment not exceeding four hours.

Sec. 7. Be it further enacted, That if any offender or offenders shall be committed by a justice of the peace in any county where there shall be no jail or place of safe keeping, it shall be the duty of said justice of the peace to direct the sheriff of said county to deliver such offender or offenders to the sheriff of the next adjoining county, where a jail or place of safe keeping may be, there to be confined and dealt with according to law, and the said sheriff shall, and he is hereby authorised to summon a guard for the purpose of conveying the offender or offenders to said adjoining county,

Sec. 8. Be it further enacted, That in all cases of the confinement of any person or persons for crimes or misdemeanors under the laws of this Territory, any two justices of the peace of the county where such person or persons may be confined, shall have the same power of bailing or discharging the person or persons, as is or may be possessed by either of the Judges of the Superior courts.

Sec. 9. Be it further enacted, That the Judge of the court having cognizance of the offence shall have power to bail a prisoner, if he should be of opinion that it is a bailable offence, although the justice was of a different opinion.

Sec. 10. Be it further enacted, That if a prisoner shall desire witnesses to be summoned, either before the examining court, or the court before which he or she is to be tried, upon application of the prisoner or his counsel, the clerk or justice shall issue subpoenas, and the court shall compel the attendance of such witnesses.

Sec. 11. Be it further enacted, That after any person shall be indicted for felony, if he be not already in custody, the sheriff or marshal shall be commanded to attach his body by a writ of *capias*; and when a grand jury shall have presented to a Superior court a bill of indictment for felony and the prisoner be in custody, the

Contempts.

If there be no jail in the county.

Two justices may bail or * discharge.

Judge of the court in certain cases.

Prisoner may summon witness.

Capias on indictment.

Trial to had, at first term.

court shall cause the prisoner to be arraigned and tried at the same term, unless good cause be shewn for a continuance, and shall allow him counsel to assist him in his trial if he desire it.

If not tried after three terms, to be discharged.

Sec. 12. *Be it further enacted,* That if any person be committed for felony and shall apply to the court by motion on the first day of the term, and shall desire to be brought to his trial before the end of the term, and shall not be indicted at that term, unless it appear to the satisfaction of the court that the witnesses could not be procured, the court shall set him at liberty upon his giving bail, in a reasonable penalty, to appear at the next court; and if he be not indicted at the second term, unless the attendance of the witnesses was prevented by himself, he shall be discharged from imprisonment; and if he be not tried at or before the third term after his examination he shall forever be discharged from the crime.

Copy of indictment.

Sec. 13. *Be it further enacted,* That in all trials of felonies, the prisoner shall have a copy of the indictment and a panel of the jury, whenever he may desire it before trial or sentence.

Jury.

Peremptory challenges.

Indictments, how signed and endorsed.

Duty of the grand jury.

Approvers.

Sec. 14. *Be it further enacted,* That the venire summoned as aforesaid, or such of them as appear and be not challenged, together with so many other good and lawful men of the bystanders, being house keepers within this Territory, as will make the number twelve, or if the whole array be challenged, twelve of such bystanders shall be a jury for the trial of criminals; and in all cases of felony, the accused shall have a right of peremptory challenge of twenty.

Sec. 15. *Be it further enacted,* That all indictments shall be signed by the prosecuting attorney, and endorsed on the back by the foreman of the Grand Jury, when so found, "a true bill," and when not found, "not a true bill," and signed by him; and in all presentments for penal offences, the presentments shall be signed by the foreman of the Grand Jury.

Sec. 16. *Be it further enacted,* That it shall be the duty of the Grand Jury to present every offence against the penal laws of this Territory, or against those of the United States, whether any specific punishment is pointed out or not, if punishment has not been inflicted.

Sec. 17. *Be it further enacted,* That approvers shall never be admitted in any case whatever.

Sec. 18. Be it further enacted, That all prosecutions, (felonies excepted) all actions, suits, presentations upon penal acts of the Governor and Legislative Council, and those of the United States shall be sued and prosecuted within one year next after the offences committed.

Limitation.

Sec. 19. Be it further enacted, That bail may be required upon suits for infractions of penal laws, by order of the court.

Bail.

Sec. 20. Be it further enacted, That the Sheriff of each county shall collect all fines imposed by this act within their respective counties, and the Marshals of the Superior courts in their respective districts, and pay them over to the Treasurer of the Territory on the first Monday of January and July in each and every year, under the penalty of five hundred dollars, besides the sums retained by them and not paid into the Treasury, for which they shall be liable, upon motion before the court awarding said fines; after ten days notice; and the officers aforesaid shall be entitled to five per cent for the collection of the fines adjudged agreeably to the provisions made by this act.

Fines, by whom collected and how disposed of.

Sec. 21. Be it further enacted, That it shall be the duty of the clerks of the several courts to forward to the Treasurer on the first Monday of December and June in each and every year, a list of the judgments for fines imposed by this act, under the penalty of one hundred dollars for failing so to do, to enable the said Treasurer to settle with the Sheriff or other officer; and if the said Treasurer shall find a deficit unaccounted for by the Sheriff or other officer, he shall report the same to the attorney prosecuting for the Territory, whose duty it shall be to institute a suit for the penalty, and make the motion herein directed.

Clerk to forward to the Treasurer a list of fines.

Sec. 22. Be it further enacted, That the Governor of this Territory be authorised to offer a reward, not exceeding two hundred dollars, for the apprehension of absconding felons in capital cases; and the Governor shall be authorised to draw upon the Territorial Treasurer for the above sums, when necessary to be paid for the reward so offered.

Governor to offer reward for absconding felons.

Sec. 23. Be it further enacted, That all officers who are required by law to take an oath, or give bond for the faithful performance of their duties, upon failure, shall be fined at the discretion of the court; and if he presume to exercise the duties of his office without observing the le-

Officers, acting without giving bond &c.

gal pre-requisites, he shall be subject to the said penalty; and it shall be the duty of the several courts of criminal jurisdiction to give this act in charge to the Grand Jury.

Officer may employ another person to execute the sentence of the court.

Sec. 24. *Be it further enacted*, That whenever any criminal shall be sentenced to be whipped by any Judge of any court or any Jury, it shall be lawful for the Marshal or Sheriff, at his own proper cost, to employ another person to execute the sentence of the court, any law to the contrary notwithstanding; Provided, that the said Marshal or Sheriff shall always be present during the execution of the order of the court, directing the infliction of punishment and shall see that the same be faithfully executed.

Jurisdiction of offences.

Sec. 25. *Be it further enacted*, That in all cases where an indictable offence shall be perpetrated in this Territory, and the same shall commence in any one county and terminate in another, the person offending shall be liable to be indicted in either county.

Effect of criminal process.

Sec. 26. *Be it further enacted*, That in all cases where an indictable offence shall be perpetrated in this Territory, and process shall issue to apprehend the offender, such process shall have the same force and effect in another county or in another judicial district, as it had or should have had in the county or judicial district where it issued; Provided, that in all cases where process shall run into another county or another judicial district, the same shall be endorsed by some Judge or Justice of the Peace living in said other county or judicial district.

Passed 15th November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 19th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Concerning Wills, Letters Testamentary and Letters of Administration, and the duties of Executors, Administrators and Guardians.

Sec. 1. *Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the county*

courts shall hear and determine all complaints of wards against Guardians, require of them counter security when necessary, displace them, or make such orders as to them may seem equitable and right, relating to the estate; they shall require of the Guardian, from time to time, an inventory of the ward's estate, its profits and disbursements, and make such orders as to them may seem just.

County courts
to hear com-
plaints against
guardians.

Sec. 2. Be it further enacted, That every poor orphan who has not estate sufficient for his maintenance out of its profits, shall by order of the court aforesaid, be bound out as an apprentice, until he arrive at the age of twenty one years, if a boy, and the age of sixteen if a girl, to some master or mistress, who shall covenant to teach the said apprentice some art, trade or business to be particularized in the Indenture, and also to teach him or her reading, writing and arithmetic, and to give him or her a new suit of clothes when he or she arrive at that age.

Shall bind out
as apprentices
poor orphans.

Sec. 3. Be it further enacted, That every county court shall hear the complaints of apprentices or hired servants, being citizens of the United States, who reside within the jurisdiction of such court, against their masters or mistresses, alledging an undeserved or immoderate correction, insufficient allowance of food, raiment or want of instruction; and the said court shall determine the complaints in a summary way, and make such orders for their government or removal, as to said court may seem proper.

Complaints
of apprentices.

Sec. 4. Be it further enacted, That it shall be the duty of the county courts in the several counties of this Territory in term time, and of the judges of said courts in vacation, to take proofs of all last wills and testaments, and to grant probates, letters testamentary and letters of administration, with or without any will annexed, and to do and perform all matters and things enjoined on said courts, or the judges thereof in vacation to the estates of deceased persons.

County court
to grant pro-
bate of wills,
letters of ad-
ministration
&c.

Sec. 5. Be it further enacted, That no person shall be qualified or permitted to act as an Executor, Executrix, Administrator or Administratrix, unless he or she be twenty one years of age or upwards, and in the case of minors being named executors in any last will and testament, the letters testamentary shall be granted to the other executor or executors, if any be named, in said

Who shall be
an executor or
administrator.

will or testament, if none other be named, letters of administration with the will annexed, shall be granted to the next of kin, or to such other person as the court or judge shall appoint, according to the provisions hereafter mentioned, until such minor shall come of full age, when he shall be admitted to act and be qualified as an executor; in such case the letters of administration, if any shall have been granted, shall be revoked, and the said administrator or administratrix shall render a true and faithful account of his or her administration to the county court, and surrender the estate to the said executor or executrix.

**Probate of
wills and let-
ters &c when
granted.**

Sec. 6. *Be it further enacted,* That the probate of all wills and letters of administration shall be granted in the county wherein the testator or intestate died; unless, at the time of his or her death, he or she, had a Mansion house or other place of abode in some other county, and in such case, the probate and letters of administration shall be granted in such other county, and if his or her death take place out of this Territory, and at the time of his or her death he or she was possessed of any goods, chattels, slaves or lands in any county in this Territory, the probate of his or her will may be granted in the county where any part of said goods, chattels, slaves or lands may be.

**To whom
granted.**

Sec. 7. *Be it further enacted,* That letters of administration, shall be granted to the representatives of the intestate who apply for the same, preferring first the husband or wife, and next such others as are entitled to distribution of the estate of the intestate in the order of consanguinity; and if no such person apply for administration, or if one applying, cannot comply with the provisions of this act after citation duly published for the term of six weeks, once a week, in some newspaper printed in the district or jurisdiction where the intestate died, if any be printed there, if not in some newspaper printed in the adjoining district or state, and also by writing posted at three public places in the county, then the said court or judge may grant administration to a creditor of the intestate or some other fit person; but if any will shall, after granting letters of administration, be produced and duly proved, the aforesaid letters of administration shall be revoked and letters testamentary granted to the executors of said will, Provided, they shall be ready and willing to be qualified, and if

**Husband or
wife.**

Creditors.

not, the letters of administration previously granted shall stand good, and the will be thereto annexed.

Sec. 8. Be it further enacted, That previously to the granting of letters of administration, it shall be the duty of the court or the judge, to require the person applying for administration to state upon oath or affirmation to the best of his knowledge and belief, whether there be any heirs or legal representatives of the intestate in being or not, which statement shall be in writing and subscribed by the party making the same, and filed in the clerks office, and such person applying as aforesaid for letters of administration, shall be also required, to state upon oath or affirmation, whether according to the best of his or her knowledge and belief the deceased died without a will and to swear or affirm, that he will well and truly administer all and singular the goods, chattels, rights and credits of said deceased, make a just and true inventory of the same, pay his debts as far as the assets of the estate shall extend and the law direct, and make a fair distribution according to law, and render a true account of the administration of the estate when thereto required: all executors taking out letters testamentary on the estate of their testator and all administrators with the will annexed, shall make oath or affirm before the court or judge, that they will well and truly perform the last will and testament of the testator, and pay all his just and lawful debts so far as his goods, chattels, rights and credits will extend, and that they will make a true and correct inventory of the same, and render a true account of their administration when thereto required.

Sec. 9. Be it further enacted, That the person or persons to whom letters of administration with or without the will annexed, shall be granted as aforesaid, shall be required by the said court or judge to execute and file in the clerks office a bond, with two or more sufficient securities, in such penal sum as the Judge or court may deem fit, respect being had to the value of the estate, in the name of the Governor of the Territory and his successors in office, in the manner and form following; to wit; The condition of his obligation is such that if the above bounden A. B. administrator or administratrix as the case may be, of all and singular the goods, chattels, rights and credits of C. D. deceased, do make or cause to be made a true and perfect inventory of all and singu-

Oath of ad-
ministrator &c.

Oath of ex-
ecutors &c.

Administrator
to give bond,

Condition
thereof.

lar the goods, chattels, rights and credits of the said deceased, which have or shall come to the hands, possession or knowledge of him the said A. B. or into the hands of any person or persons for him, and the same so made, do cause to be filed in the clerk's office of the county court, for the county of _____, at or before the _____ day of _____ next ensuing; and all the goods, chattels, rights and credits of the said deceased, at the time of the death of the said deceased, which at any time after shall come to the hands or possession of the said A. B., or into the hands or possession of any other person or persons for him, do well and truly administer according to law; and further make or cause to be made, a true and just account of his administration, when required, and all the rest and residue of said goods, chattels, rights and credits, which shall be found remaining upon the said administrators account, the same being first examined and allowed by the county court of the county where the said administration is granted, and shall deliver and pay to such person or persons respectively as the said court by their order or decree, pursuant to the true intent and meaning of this act shall appoint and direct; and if it shall thereafter appear, that any last will and testament was made by the said deceased, and the executor or executors therein named do file the same in the office of the said court, making request to have it allowed and approved; and the said will is allowed and approved by the said court, then if the said A. B. above bounden, being thereunto required, do render and deliver his said letters of administration, then this obligation to be void and of no effect, otherwise, to remain in full force and virtue. And administrators with will annexed of goods and chattels not administered, shall give a bond with the like security, changing the form of the condition according to the nature of the case.

<sup>Administrations
pendente
lite, or during
minority or
absence of ex-
ecutor.</sup>

Sec. 10. *Be it further enacted,* That while any controversy is pending in regard to any will, or during the minority, or in the absence of the executor or executrix, the court or judge may grant letters of administration during such controversy, minority or absence, or may appoint any person or persons, to collect and preserve the estate of the deceased, and sell any part of the same which may be of a perishable nature, until a probate of the will or letters of administration be granted, (taking bond and security) for administering the estate of such

testator well and truly during the controversy, minority or absence of the executor or executrix, or for collecting the estate and making an inventory thereof, and safe keeping and delivery of the same when thereunto lawfully required by the executor or executrix, administrator or administratrix duly qualified.

Sec. 11. Be it further enacted, That all wills of which probate shall be granted as aforesaid, shall be deposited in the office of the clerk of said county court, and by him fairly and correctly recorded in a book kept for that purpose, together with the letters testamentary or of administration granted thereon, and all letters of administration on the goods, chattels, rights and credits of persons dying intestate, shall also be recorded in the office of the said clerk, and on payment of his fees, he shall give certified copies thereof under the seal of the court, which certified copies shall be received in evidence in all the courts of record in this Territory, and have the same effect as the originals might or could have in law or equity, and if any clerk shall deliver such letters testamentary or of administration without recording the same, he shall forfeit to the party injured, double the damages which he may have sustained for default of such record being duly made.

Sec. 12. Be it further enacted, That copies of all wills and letters testamentary and of administration, heretofore recorded in any public office of record in the Territory, when duly certified by the keeper of said records, shall be received in evidence in all the courts of record in this Territory; and the probate of wills granted in any of the United States or of the Territories thereof, in any foreign country or State duly authenticated and certified according to the laws of the State or Territory, or of the foreign country or State where such probate may have been granted, shall likewise be received in evidence in all the courts of record in this Territory.

Sec. 13. Be it further enacted, That the said court or Judge on granting letters testamentary or of administration, shall appoint two or more respectable and discreet persons, not of kin to the deceased, as appraisers of the goods and chattels, rights and credits of the testator or intestate, and shall administer to the said appraisers an oath or affirmation, truly and justly to view and appraise according to the best of their skill and opinion, all the

Wills to be
deposited in
the clerks of
office and record
ed.

Certified co-
pies of, evi-
dence.

Copies of wills
&c heretofore
recorded, made
evidence.

Appraisers,
how and by
whom appoint-
ed.

Their oath.

personal estate and slaves of the testator and intestate, which to them shall be produced or which shall come to their knowledge, and deposit the appraisement thereof in the office of the clerk of said court.

Duty of the Appraisers.

Sec. 14. *Be it further enacted,* That on the appointment of the appraisers aforesaid, they shall proceed to appraise all slaves, and all the personal property to them produced, and the appraisement thereupon made, if signed by the executor or administrator, may be considered as an inventory of such part of the estate as had come to his hands or possession; and in all cases where any person dies intestate, leaving a widow or children, such widow or children shall be entitled to keep her or their wearing apparel, and such household goods and farming utensils, provisions and clothing necessary for their maintenance, as the appraisers shall exempt from the inventory, they having special regard to the ability of such widow and children to provide for and maintain themselves; and it shall be the duty of the court or Judge appointing the appraisers as aforesaid, to direct them to make out a list or schedule, to be signed by them, of all household goods, farming utensils and provisions and clothing, by them exempted from inventory, together with the number of such family, which articles exempted as aforesaid they shall also appraise, and the schedule thereof deposit in the clerks office; and where the intestate leaves a widow, the aforesaid articles exempted from inventory and appraised, shall be considered and taken as forming a part of the widow's dower, or to be in lieu thereof, if the same shall amount to one third part of the personal estate of the deceased, and the schedule thereof shall be a discharge of the administrator from being accountable for the goods, effects and provisions so exempted as aforesaid.

Articles exempted, to form part of widow's dower.

Sec. 15. *Be it further enacted,* That in all cases where the estate shall be insolvent, or indebted to the full amount of the estate, the widow shall be allowed to keep as her absolute property, her implements of industry such as cards, wheels, spun yarn of every kind, and also all the cloth and clothing made up in the family of the said widow and family, for their own use, and also, such property, goods, wares and furniture as said widow may think proper, not to exceed the appraised value of two hundred dollars.

If estate be insolvent, widow allowed to retain certain articles.

Sec. 16. Be it further enacted, That all executors and administrators, where they have good cause to believe that the estate of the deceased is insolvent, or indebted to the full amount of the same, after it shall be appraised as required above, shall deliver such articles as above mentioned in this act to the widow, and take her receipt for the same, which receipt shall be allowed the executors and administrators in their statement of the said articles; and in all cases where it may be found by executors or administrators after delivering the property as above described to the said widow, that the estate is not insolvent, the said widow shall discount the amount of said receipt, by her giving to the executor or administrator so much of her one third part or half of the estate of her deceased husband, as the case may be.

To be delivered to her by administrator.

If estate prove solvent.

Sec. 17. Be it further enacted, That each appraiser appointed as aforesaid, shall be entitled to receive one dollar per day for his attendance and services, to be paid out of the estate of the deceased; and that all executors and administrators shall file their inventories in the clerks office, within two months from the day of their being qualified.

Compensation of appraisers.

Inventories when to be filed.

Sec. 18. Be it further enacted, That inventories and appraisements may be given in evidence in any suit by, or against the executors or administrators, but shall not be conclusive for or against them if other testimony be given, that the estate was really worth, or was *bona fide* sold for more than the appraised amount.

When evi-
dence.

Sec. 19. Be it further enacted, That executors or administrators, whether it be necessary for the payment of debts or not, shall as soon as convenient after they shall be qualified, sell at public sale, all such goods of their testator or intestate specific legacies excepted, as are liable to perish, be consumed or rendered worse by keeping, giving such credit as they shall judge best and the circumstances of the estate will admit of, taking bonds or promissory notes with good security of the purchasers, and shall account for such goods according to the sales; if more be sold than will pay the debts and expenses, the executors and administrators may assign said bonds and notes for the surplus to those entitled to the estate and be discharged for so much.

Perishable property to be sold.

Sec. 20. Be it further enacted, That if such perishable goods be not sufficient for the payment of debts and expenses, the executors or administrators shall proceed to

Other personal property, when sold.

sell the other personal estate, disposing of the slaves last, until the debts and legacies be all paid, having regard to the specific legacies; Provided, that if any testator direct that his estate shall not be appraised or sold, the same shall be preserved in specie, and an inventory only made thereof and deposited, unless a sale be necessary for the payment of debts.

Sec. 21. Be it further enacted, That it shall be the duty of executors and administrators, when they sell the personal property of their testator or intestate, to deliver to the clerk of the court a complete schedule of the property sold, signed by the said executors or administrators or such of them as shall have made the sale, which said schedule shall contain a description of the articles, of the names of the purchasers and the amount, and shall be filed in the clerks office within sixty days after the said sale shall have been made.

Sec. 22. Be it further enacted, That the sale and conveyance of lands and tenements, sold in pursuance of any will, shall be made by the executors or such of them as shall undertake the execution of the same, or by the surviving executors or by the administrator with the will annexed, if no other person be appointed in such will for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed the same.

Sec. 23. Be it further enacted, That if any person shall die intestate, being owner of any lands and tenements within this Territory at the time of his or her death, but not of sufficient personal estate, and slaves to pay his or her just debts, it shall and may be lawful, for the administrator to apply by petition to the county court of the county where such lands or tenements may lie, for permission to sell the same, or a sufficient part thereof at public sale, to discharge the debts of the intestate, and upon satisfactory cause shewn the said court may, from time to time, order and direct such sale to be made: *Provided*, that the county court shall make no such order, unless the administrator shall, together with his petition file a true and just account upon oath or affirmation, of all the debts of the intestate which shall have come to his knowledge, together with the inventory, appraisement and sale of the personal estate.

Sec. 24. Be it further enacted, That before any sale shall be made of the lands or tenements of any intestate,

Account sales
to be filed.

Sale of real
estate under
will.

Sale of real es-
tate of intestate

Proviso.

in pursuance of the provisions of the preceding section, the said court shall direct that advertisement of such sale shall be posted up at the court house, and at some public place in the county where the lands lie, for the space of two months, and that such advertisement be also inserted once a week, until such sale, in some newspaper printed in this Territory, in the county nearest to that in which the lands lie; and the administrator after making such sale, shall render an account of the same to the next county court held in the county where the lands lie, and make oath or affirmation that neither he, nor any person for his use or benefit, became purchaser of the said lands; and all lands and tenements sold as aforesaid, shall not be afterwards liable for the debts of the intestate.

Such sales,
how adver-
tised &c.

Return of sales
how made

Sec. 25. *Be it further enacted*, That the lands and tenements of any testator, who shall not have directed the sale thereof in his will, shall in pursuance of the provisions in the preceding section, be sold under the order of the said court to pay the just debts of the testator, and the like proceedings shall take place as directed in the sale of the lands and tenements of intestates, *Provided always*, that nothing in this act contained shall be construed to affect the right of any widow may have to dower in the estate of her deceased husband.

Lands of tes-
tator, may be
sold to pay
debts.

Proviso, as to
dower.

Sec. 26. *Be it further enacted*, That no executor or administrator shall be compelled to pay the debts of the testator or intestate until after the expiration of six months from the taking out letters testamentary or letters of administration; and if any person shall bring any action against any executor or administrator within the aforesaid six months, the plaintiff although he may obtain judgment for the amount of his demand, shall not recover any costs in his suit, nor have execution on his judgment until after the expiration of the said six months; nor shall any execution issue on any judgment rendered against the deceased in his life time, without being revived by *scire facias*, nor until after the expiration of the six months aforesaid.

No suit to be
brought against
executors un-
til after six
months.

Sec. 27. *Be it further enacted*, That in all cases where judgment shall be rendered against the executors or administrators to be levied on the goods and chattels of the deceased, no costs shall be recovered.

Costs.

Sec. 28. *Be it further enacted*, That it shall be the duty of all executors and administrators on taking out

Executors &
to advertise

for demand
against estate.

letters testamentary or letters of administration, to cause an advertisement to be published, once a week for the space of eight weeks, in some newspaper printed in the county in, or nearest to that wherein the said letters testamentary or of administration shall have been granted, calling upon all persons who have any demands against the estate of the deceased, to present them without delay to such executors or administrators.

Order in which
the debts are
to be paid.

Sec. 29. *Be it further enacted*, That the executors and administrators shall pay the debts of the deceased in the following order, *first*, the necessary funeral expenses, next debts due for board and lodging during the last sickness of the deceased, next Physician's and Surgeon's bills, for medicine and attendance, during the last sickness of the deceased, next, judgments of record rendered and docketed in this Territory during the life time of the deceased, and all debts due to this Territory, and finally, all other debts whether by specialty or otherwise without any distinction of rank.

Devastavit.

Sec. 30. *Be it further enacted*, That when any action shall be brought against any executor or administrator, suggesting a *devastavit*, if such executor or administrator cannot shew that he has fully administered according to law, he shall be charged of his own estate with the amount of the debt proved to be due from the estate, if assets to that amount be proved to have come to his hands and not duly administered by him, or so much of said debt as the amount of said assets not duly administered.

Executor mis-
managing or
wasting estate.

Sec. 31. *Be it further enacted*, That whenever it shall appear satisfactorily to the said court or judges on petition of any legatee, heir or security, that any executor, who has taken out letters testamentary on the estate of any testator, is either mismanaging or wasting the estate of the deceased, it shall be lawful for the said court or judge, to revoke the said letters testamentary, and to appoint one or more appraisers of the said estate, or to require good and sufficient security by bond to be filed by the said executors, for the further due administration of said estate, and on petition as aforesaid, whether any mismanagement or waste be charged or not, the said court or judge may order either executors or administrators, to file a just and true account of their administration in the clerk's office, within such time as the said court or judge may direct from the issuing and service of

such order ; and whenever it shall be satisfactorily shewn to the court or judge, by affidavits or otherwise, that the securities on any bond given by executors or administrators are insufficient, the court or judge shall order that additional security be filed, and if not complied with within such time as shall be directed in said order, the said court or judge may revoke the letters testamentary or letters of administration, and appoint a receiver or other administrator.

In case of insufficient security.

Sec. 32. Be it further enacted, That all bonds given by executors or administrators pursuant to this act, may be put in suit and be prosecuted from time to time at the suit of the party injured in the name of the Governor of the Territory, for the use of the party injured, for a breach of said bonds, until the whole penalty in the same be recovered, and the clerks of said court shall deliver to any person on request and payment of his legal fees, a true copy of any bond given by executors or administrators in pursuance of this act, and such copy certified by the said clerk with the seal of the court annexed, shall be sufficient evidence in any court on any trial that shall be had for the breach of the conditions thereof.

Bonds of executors &c how sued on.

Copy of bond, evidence.

Sec. 33. Be it further enacted, That no security for any executor or administrator shall be charged beyond the assets of the testator or intestate, by reason of any omission or mistake in pleading or for false pleading of such executor or administrator.

Security, how far chargable.

Sec. 34. Be it further enacted, That executors and administrators shall be allowed in their accounts, all reasonable charges and disbursements which they shall lay out and expend in funeral expences of the deceased; and in their administration of the estate, and may be allowed a just and fair compensation for their services, not exceeding six per cent on the whole amount of the personal estate, and not exceeding one per cent on the money arising from the sale of lands and slaves, except as herein otherwise provided, where there are no heirs or legal representatives.

Compensation of executors &c.

Sec. 35. Be it further enacted, That executors, administrators and guardians may, by leave of the court, retain in their possession the money of any minor, paying for the same lawful interest, or shall under the direction of the court put out the money of the minors at interest, upon such mortgage security as said court shall allow, and if such security be taken *bona fide* and without fraud,

Money belonging to an estate, how put out at interest &c.

and shall prove insufficient it shall be the loss of the minor, but if no good security can be found on which to put out the said money at interest, the said executor, administrator or guardian shall only be responsible for the principal, provided, that the day of payment of the money so to put out at interest, at any time shall not exceed one year from the date of the obligation or other security given for the same, and also at the end of each year the interest due if not paid be made principal, and a new bond or obligation be taken, and then the executor, administrator or guardian retains the money on interest himself, the same rule shall be observed, the interest being added to the principal annually, but executors, administrators and guardians, shall not be liable to pay interest, except on the surplus of the estate of the deceased remaining in their hands, and unemployed as aforesaid, after the settlement of their accounts, which settlement they are hereby [required] to make once a year before the court.

**Executors &c
and guardians
when liable for
interest**

**Settlements of
executor, or
guardian, how
made.**

Sec. 36. *Be it further enacted,* That when any executors, administrators or guardians shall make a settlement of their accounts before the court as aforesaid, it shall be their duty, at least two months previously to presenting their accounts and vouchers to the court, to give notice by written advertisement posted up at the outer door of the court house, and also at some public place in the county where the court is to be held, before which their accounts and vouchers are to be presented, of their intention to present their said accounts and vouchers, and no account or settlement shall be made or allowed by the court unless such notice shall have been given as aforesaid, and it shall be the duty of the court to make such settlement with such executors, administrators and guardians as herein directed.

**Process a-
gainst execu-
tor or guardian
& to account**

Sec. 37. *Be it further enacted,* That the judges of the county courts of this Territory respectively, shall have power to award process to cause to come before them all and every such person who as executor, administrator, guardian, tutor, trustee or otherwise, are or may be concerned and intrusted, or in any wise accountable for any estate, real or personal, belonging to any orphan or any person under age, to cause them to make within a reasonable time, true and perfect inventories of said estate, and render just and true accounts of the same; and if any person entrusted as aforesaid, shall

neglect to account to said court as aforesaid, the court shall immediately issue an attachment against such person, to be executed by the Sheriff of the county where such person may live, to be returned by the Sheriff together with the delinquent, who shall pay all the costs of the attachment.

Sec. 38. Be it further enacted. That no legacy or distribution shall be required of any executor or administrator, until the expiration of six months from the taking out of letters testamentary or letters of administration, nor shall executors or administrators be compelled to pay legacies or make distribution, until bond and security be given by the person entitled to the same, to refund a due proportion of any debts or demands which may afterwards appear against the estate, and all costs which may be awarded on the same ; Provided, that such debt or demand shall appear within two years after granting the letters testamentary or letters of administration.

Sec. 39. Be it further enacted, That all debts and demands of whatsoever nature against the estate of any testator or intestate which shall not be exhibited within the said two years, shall forever afterwards be barred ; Provided, that the executor or administrator shall by an advertisement, to be published once a week for the space of four weeks in some news-paper printed in this Territory, give notice to all creditors, legatees and persons entitled to distribution, that their claims and demands will be barred at the expiration of the period aforesaid unless exhibited within the same, saving however to married women, infants, persons of unsound mind, imprisoned or beyond the limits of the United States, in the military or naval service thereof during war, the said term of two years after their respective disabilities shall be removed, to exhibit their respective demands to said executors or administrators.

Sec 40. Be it further enacted, That if any executor or administrator, guardian or trustee, shall receive and give discharges for any debts, rents, duties or sums of money belonging to any orphan or minor for whom the said executor, administrator, guardian or trustee was entrusted, all such discharges and receipts shall be binding upon the orphan or minor and his heirs when he shall come to full age, and shall be effectual in law to discharge the person taking the same ; Provided however, that nothing herein contained shall discharge the execu-

Legacies, how
and when
paid.

Debts to be
barred after
two years.

Proviso.

Saving clause

Receipts and
discharges by
executor,
guardian &c.

tor, administrator, guardian or trustee, from accounting to the orphan or minor where such receipt or discharge shall not have been legally given, or given for a fraudulent purpose.

~~Escheat for
defect of
heirs.~~

Sec. 41. *Be it further enacted*, That the lands and tenements of every person dying intestate in this Territory, as well as the personal estate of such person, if he leave no lawful heir or heirs, after all legal debts and expenses shall be paid, shall become the property of the Territory; and if any person shall administer on the said estate, he shall be considered as a trustee of the same, for the use of the Territory.

~~Duty of ad-
ministrator in
supposed ca-
ses of defect
of heirs.~~

Sec. 42. *Be it further enacted*, That it shall be the duty of such administrator, immediately on taking out letters of administration on any estate, where it is generally believed and reported, that the deceased left no lawful heirs, to cause to be published a notice in some news-paper printed in the Territory for six weeks, containing the name of the intestate and as near as may be a description of his person and of the place where he died or was known to reside, and also a statement of the appraised amount of his estate; and it shall be the duty of such administrator, after the expiration of one year from the time of taking out letters of administration, if no heir or legal representative shall appear, to pay into the Treasury of the Territory, under the direction of the county court where letters of administration shall have been granted, all the proceeds of the personal estate of such intestate, retaining ten per cent for his personal trouble in administering said estate, together with all actual disbursements by him necessarily made in about the administering of said estate; and it shall be the duty of said court in directing the proceeds of said estate to be paid into the Territorial Treasury, on payment of the same to cause an entry to be made of record, specifying the amount so paid into the Treasury, and also the name of the intestate and of the administrator, together with a copy of the notice published as herein before directed, and the said court shall thereupon discharge such administrator of the amount so paid together with the ten per cent allowed him and the necessary disbursements as aforesaid.

~~Shall pay
proceeds of
estate into the
the treasury.~~

Sec. 43. *Be it further enacted*, That when any intes-

tate shall have died seized or possessed of any real estate in this Territory, it shall be the duty of such administrator at the expiration of two years, if no heir or legal representative shall appear, to apply to the county court where such estate may lie, for an order for the sale of such estate, and upon the production by the administrator of the letters of administration, and a copy of the notice published as herein directed, together with a certificate from the court from whence said letters of administration issued, under the seal of said court (if any other than the court from whence said letters of administration issued,) certifying, that the said estate is such as comes within the purview of the forty first section of this act, to order the sale of such real estate to be made on some day of a succeeding term of said court, at the court house door, after advertising said sale, in some public newspaper printed in this Territory, and for at least three weeks next preceding the day of sale, and posting up said advertisement for the same space of time at the court house door.

No heir appearing within two years, real estate to be sold.

Sec. 44. Be it further enacted, That on the sale of such estate as aforesaid, it shall be the duty of such administrator to give a credit of one year to the purchaser who shall be the highest bidder, upon such purchaser giving bond with security approved by the administrator for the payment of the purchase money; and it shall be the further duty of such administrator, upon the sale of such estate, to execute to the purchaser a deed, conveying all the right, title and interest, which said intestate had in the said estate, which deed shall be acknowledged before the county court of the county where the estate shall lie; and it shall be the further duty of such administrator to pay into the Territorial Treasury, all the proceeds by him received on the sale of such estate in the same manner as directed in the forty second section of this act, retaining for his trouble the same compensation as therein allowed on the whole proceeds of such sale, together with all necessary disbursements by him actually made, in and about the selling of such estate: Provided, that no administrator on said estate shall either, directly or indirectly, become the purchaser of the whole or any part of the land or tenements sold by virtue of this section, and when the said administrator shall give a deed for said lands so sold, he shall make oath or affirmation, that he is neither directly nor indirectly interested

One year credit to be given on such sale.

Administrator to make deed &c.

Shall pay proceeds into the treasury.

Shall not be a purchaser.

in the purchase of said land or tenements, or any part thereof.

If heir appears
and makes
claim,

Appeal from
the county to
the superior
court.

Curator.

Clerk to act
in the absence
of Judge.

Final distribu-
tion.

Sec. 45. Be it further enacted, That if any heir or legal representative of any intestate, within the meaning of this act, shall appear and prove his right to the estate, after the payment of the proceeds thereof into the Territorial Treasury as aforesaid, the court shall order the money so paid into the Treasury, forthwith to be reimbursed to said heir or legal representative out of the Territorial Treasury.

Sec. 46. Be it further enacted, That if any person or persons shall feel aggrieved by any definitive order, judgment or decree of the county court, with respect to any matter relating to the administration of the estate of any deceased person, it shall be lawful for the person so aggrieved to appeal from the said order, judgment or decree to the Superior court, which appeal, upon security given as in other cases, shall be allowed accordingly, and such appeal shall be a supersedeas to all other proceedings in the court below, until the same be determined.

Sec. 47. Be it further enacted, That when any person shall die intestate, and there be no relation of the deceased in the county, the court or Judge in vacation shall appoint a curator to take charge of the estate of the deceased until letters of administration be granted; and if said court or Judge do not appoint a curator, the Sheriff shall *ex officio* take possession of the goods and chattels of the deceased, and be accountable to the administrator, when appointed, for the same, and shall make an inventory of the same and deposit said inventory in the clerks office of said court.

Sec. 48. Be it further enacted, That the clerks of the said county courts respectively, in the absence, sickness or other disability of the Judges of said courts, are hereby authorised and empowered to discharge the duties appertaining to said Judges, in regard to the probate of wills, granting letters of administration and letters testamentary, and making the necessary orders in regard to the custody, preservation or sale of the estate of deceased persons, subject to revocation or confirmation by the said court or Judges.

Sec. 49. Be it further enacted, That after all debts and legacies have been paid, the property remaining in the hands of the executor or administrator shall be dis-

tributed according to the provisions of the law regulating descents.

Sec. 50. *Be it further enacted*, That the Judges of the several county courts of this Territory shall have power, to take cognisance of all matters concerning orphans and their estates, and to appoint guardians in cases where it appears necessary and proper, and shall take good security of all guardians appointed by them, for the estate of orphans committed to them; and if any of the said Judges and Justices shall fail to take good security from such guardian, they shall be individually liable for any loss from insufficient security, to be recovered by action of debt in any court of record in this Territory; Provided, it shall appear that at the time such security was taken, it was insufficient; Provided however, Fathers may appoint guardians for their children by deed in writing or last will and testament, during any part of the infancy of the child, and such appointment shall give the guardian the same power over the child and shall subject him to the same liability as is and shall be directed by law.

Guardians of
orphans, how
appointed.

Guardians by
will or deed.

Sec. 51. *Be it further enacted*, That every person of the age of twenty one years, being of sound mind, shall have power by last will and testament in writing, to devise and dispose of his or her lands, tenements and hereditaments, and of his or her estate, right, title and interest in the same, in possession, remainder or reversion, at the time of the execution of the said last will and testament, and of the slaves which may be possessed by him or her at the time of his or her death; Provided, that every such last will and testament shall be signed by the testator, or by some other person in his or her presence, and by his or her express directions, and shall be attested and subscribed, in the presence of the said testator or testatrix, by three or more witnesses or else it shall be utterly void and of none effect.

Persons capa-
ble of making
a will.

Will to be u.
writing and
signed &c.

Sec. 52. *Be it further enacted*, That no such devise or disposition of lands, tenements, hereditaments or slaves or any part or clause thereof shall be revocable by any other will or codicil, unless the same be in writing and made as aforesaid, but every such last will and testament, devise or disposition may be revoked by any other writing signed by the testator or testatrix, declaring the same to be revoked, or operating as a revocation thereof by law, or by burning, canceling, tearing or obliterating the same, by the testator or testatrix, or by his or her

Wills, how
revoked.

~~Nuncupative will.~~ direction and consent, or by the act and operation of law.

Sec. 53. *Be it further enacted*, That no nuncupative will shall be good, that is not proved by the oaths of three witnesses at least, that were present at the making thereof, nor unless proved by the said witnesses, that the testator or testatrix at the time of pronoucing the same, did desire the persons present or some of them, to bear witness that such was his or her will or to that effect, nor unless such nuncupative will was made in the time of the last sickness of the deceased.

~~To be proved within six months &c.~~ Sec. 54. *Be it furiker enacted*, That after six months passed after the speaking of said testamentary words no testimony shall be received to prove any nuncupative will, unless the said testimony or the substance thereof, were reduced to writing within six days from the making of said will, and were sworn to before some judicial officer of this Territory within the said six days.

~~Probate of such will, how granted.~~ Sec. 55. *Be it further enacted*, That no letters testamentary or probate of any nuncupative will shall be granted, until sixty days at least from the death of the testator or testatrix, nor shall any nuncupative will be received to be proved, until citation hath issued, and have been published and served upon the widow or next of kin of the deceased at least sixty days from the time appointed for proving such will, calling in the said widow or next of kin in order that they may contest the same if they think fit.

~~Will of goods and chattels, how revoked.~~ Sec. 56. *Be it further enacted*, That no will or writing concerning any goods or chattels shall be revoked, nor shall any clause, devise or bequest therein be altered and changed by any words, or will by words of mouth only, except, the same be in the life of the testator or testatrix committed to writing, and after the writing thereof, read unto the testator and allowed by him, and be proved to be done by three disinterested and credible witnesses at least.

~~Wills and testaments, how admitted to probate.~~ Sec. 57. *Be it further enacted*, That last wills and testaments both of real and personal property may be admitted to probate, upon the oath of any person appointed executor or executrix thereto, or where no executor

or executrix is appointed, of any other credible person having no interest under the will, that he or she verily believes the writing exhibited as the last will and testament, to be the true last will and testament of the deceased, which probate may be granted in term time or vacation by the several judges of the county courts, or by the several clerks thereof in vacation, in case of the absence or inability of the judges to act, subject to the confirmation or revocation of the court.

Sec. 58. Be it further enacted, That the probate of wills so far as concerns any personal estate other than slaves, shall be conclusive as to the validity of the will of which it is the probate, and that the probate of wills as far as concerns real property and slaves, shall be *prima facie* evidence of the validity of the wills of which it is the probate, in any suit or controversy in relation to, or concerning, the property thereby devised or bequeathed; and it shall and may be lawful for any and every person or persons interested, to make application to the court in which the probate of any will may have been granted, for a revocation of such probate, by petition to the said court, which petition shall set forth the ground upon which revocation is demanded, and a copy thereof, together with a citation to appear and answer the same, shall be served upon the executor or executrix or administrator or administratrix with the will annexed, at least thirty days before the term of the court to which such citation may be returnable, and the party cited to answer the said petition, shall file his or her answer to the same ten days before the court to which the citation is returnable, and the said court shall upon the petition and answer of the said parties, and the proof adduced by them, which shall in all cases be taken down in writing in open court, confirm or revoke the said probate according to the law and justice of the case, at the term of the court to which the citation shall be returnable, unless good cause be shewn for a continuance.

Probate, how
far evidence of
validity of
will.

Probate, how
revoked.

Sec. 59. Be it further enacted, That probate of wills duly obtained and granted by any court in any of the states, territories or districts in the United States or in any foreign country which relates to property in this Territory, shall be admitted to record in the aforesaid county courts, and shall when so recorded, have the same force and effect as to the disposition of the property thereby

Foreign
probate

devised or bequeathed, as wills executed in this Territory; *Provided*, the said-wills made out of this Territory, shall have conformed to the laws thereof in the form and manner of their execution.

Saving as to
rights vested
under Spanish
laws.

If no court in
the county ap-
plication for
sale may be
made in ad-
jacent county.

Return of
gales,

Clerk, when
to act as ad-
ministrator.

Sec. 60. Be it further enacted, That nothing in this act contained shall be construed to affect the rights already vested by the preexisting Spanish laws in this Territory in married woman, in regard to their power of devising or bequeathing their separate property.

Sec. 61 Be it further enacted, That when any lands and tenements of an intestate, whose personal estate and slaves shall not be sufficient to pay his or her just debts, shall be in any county of this Territory where there shall be no county court organized, it shall and may be lawful for the administrator of such intestate, to apply by petition to the county court of any county adjacent to that where such land may lie, for permission to sell the same, or a sufficient part thereof at public sale, to discharge the debts of the intestate; and upon satisfactory cause shewn, the said court may from time to time order and direct such sale to be made under the provisions of this act.

Sec. 62. Be it further enacted, That that every administrator making a sale in pursuance of the provisions of the preceding section, shall render an account of the same to the court which granted such permission to sell at the next term of said court.

Sec. 63. Be it further enacted, That when any person shall die leaving property in this Territory, and for the space of six months thereafter, no person shall be appointed administrator on the estate of such deceased person, it shall be the duty of the clerk of the county court *ex officio*, to take charge of such estate, and to administer on, and settle said estate, in the same manner as directed for other administrators; and in case of the death of any administrator, or of the revocation of the letters of administration given to any administrator, it shall be the duty of the county court in term time and of the judges thereof in vacation, to grant new letters of administration to any person entitled to the same according to the provisions of this act, and in case no person shall be appointed administrator of such estate according to the provisions of this act, it shall be the duty of the

clerk of the county court *ex officio* to proceed to administer on and settle such estate under order of the aforesaid court.

Passed 29th October 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 20th 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Concerning Evidence.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That copies of any of the printed laws of any State or Territory of the United States, which shall be printed by the authority of such State or Territory, shall be admitted and received as evidence in any Judicial proceedings in this Territory.

Laws of any state or territory.

Sec. 2. Be it further enacted, That all transcripts from the books and records from the Treasurer's office, properly certified by said Treasurer, and all transcripts from books and papers in the office, either of the Governor or Secretary of the Territory, certified by the Governor or Secretary, shall be good and admissible evidence in all judicial proceedings in this Territory of the facts contained in said transcripts.

Transcripts of papers in the Governor's, Treasurer's and Secretary's office.

Sec. 3. Be it further enacted, That if any person who may be a resident of a foreign country beyond the jurisdiction of the United States shall make oath to any bill, petition or answer in chancery before some authorised Notary public, who shall certify the same and affix his seal of office thereto, and obtain the certificate and seal of the Consul or commercial agent of the United States or such person as may be exercising the powers either of consul or commercial agent at said place, that the person signing himself as Notary public has been duly appointed, and that full faith and credit are to be given to all his official acts, the said bill petition or answer in chancery shall be used in any court of law or equity in

Answer &c in chancery.
sworn to in a foreign place.

the same manner as if the same had been sworn to before some proper officer within the limits of this Territory.

Foreign deposition.

Production of books, papers &c in evidence.

Private act of the Council.

Sec. 4. *Be it further enacted,* That the deposition, either at common law or in chancery, of any person residing as aforesaid beyond the jurisdiction of the United States, taken before a Notary public and certified in the manner as prescribed by this act, shall be read as evidence in any suit depending in this Territory; Provided, that legal notice shall be given to the opposite party of the time and place of taking such deposition.

Sec. 5. *Be it further enacted,* That the courts in this Territory shall have power on the trial of causes cognizable before them respectively, if it shall be satisfactorily proved that ten days notice was previously given to the opposite party or to his, her or their attorney, to require the party notified as aforesaid, to produce books and other writings in his, her or their possession, power or custody which shall contain evidence pertinent to the issue, and if either party shall fail to comply with such order or to satisfy the court why the same is not complied with, it shall be lawful for the court if the party so refusing be plaintiff, to give judgment for the defendant as in cases of non suit, and if defendant to give judgment against him or her by default; Provided, that the party requiring the production of the books or papers as aforesaid shall in all cases satisfy the court of their materiality in the causes therein depending.

Sec. 6. *Be it further enacted,* That printed copies of private acts of the Legislative Council of this Territory may be given in evidence in any judicial proceedings, without being specially pleaded.

Passed 18th November 1828.

PETER ALBA,
President of the Legislative Council.
THOS. MUNROE, Clerk.

Approved, November 21st 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

For the summoning of Grand and Petit Jurors and for other purposes,

*Sec. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Grand and Petit Jurors to serve the Superior and county courts of this Territory shall be summoned by the Marshal or Sheriff or other ministerial officers of the said courts respectively, by virtue of a writ of *venire facias* to them respectively directed, which summons shall be made either personally upon the person to be summoned, or left in writing at his dwelling with some white person residing in his family, or residing in the house in which he dwells, of the age of fifteen years and upwards, at least ten days before the first day of the term of the court to which they shall be summoned.*

Grand and Pe-
tit Jurors how
summoned.

*Sec. 2. Be it further enacted, That it shall be the duty of the several clerks of the aforesaid courts to have made out ready for the delivery to the ministerial officer of the respective courts on his application, the writs of *venire facias* prescribed by this act, at least five weeks before every term of their respective courts; and it shall be the duty of the ministerial officer of the said courts respectively to apply for and receive the said writs of *venire facias* at least one month before the term of the court to which they shall be returnable.*

Writs of *rene-
rificias*, when
issued.

*Sec. 3. Be it further enacted, That separate and distinct writs of *venire facias* for summoning grand and petit jurors shall be directed to the Marshal, Sheriff or other ministerial officer of the court from which they may issue, they shall be tested in the name of the Judge of the said court and be signed by the clerk of the court thereof; it shall be the duty of the ministerial officer who shall execute the said writs or any of them to make due return of the same to the office of the clerk of the court from which they or any of them issued, at least three days before the first day of the term of the court to which they shall be returnable, and there shall be attached to the said writs respectively a panel of the persons summoned to serve as jurors, which panel shall be signed by the ministerial officer who executed the writ, and the said writs and panels shall be kept in the said office open to the inspection of suitors and others interested in the proceedings of the said courts, and shall have endorsed*

How issued.
tested and re-
turned.

thereon by the clerk the time at which they were filed in his office.

How executed

Sec. 4. *Be it further enacted*, That the writs of *venire facias* shall be executed by the aforesaid ministerial officers of the aforesaid courts, by summoning as aforesaid from the body of the county in which the court issuing the writ shall be held, twenty three such persons as are or may hereafter be qualified according to law to serve as grand jurors in the courts of this Territory, and not less than twenty four such persons as are or shall hereafter be qualified according to law to serve as petit jurors in the courts of this Territory; Provided always, that in the counties of St Johns and Escambia not more than one half of the grand and one half of the petit jurors shall be summoned from the cities of St Augustine and Pensacola respectively; Provided, that nothing in this act contained shall prevent the said Superior and county courts when in session, from commanding the ministerial officers to summon in the manner most convenient, as many good and lawful men to serve on either of the said juries as may be necessary to supply any deficiency of jurors, arising from the absence of any of those of the original panel, or whenever from any cause an additional number of petit jurors shall be necessary.

Talesmen.

Duty of officer in summoning.

Sec. 5. *Be it further enacted*, That it shall be the duty of the said ministerial officers in the execution of the said writs of *venire facias* to summon the most respectable persons of their counties.

Jurors in justices courts.

Sec. 6. *Be it further enacted*, That Jurors to serve in the courts of the Justices of the peace of this Territory, shall be summoned by any Constable of the county in which the Justice's court shall be held, in virtue of a precept to any such constable directed, under the hand and seal of the Justice awarding the same; they shall be summoned from the neighbourhood of the place, and within the county in which the said court shall be held, at least one day before the day on which the court to which they may be summoned is to be held.

Defaulting jurors in the Superior and county courts.

Sec. 7. *Be it further enacted*, That every person subject to the performance of the duty of a juror who shall have been duly summoned to serve as a grand juror in any of the courts of this Territory, and shall fail to attend at said court without a good and sufficient cause to be judged of by the court, shall be liable to a fine to be imposed by the said court in its discretion, not exceed-

ding forty dollars; and every such person who shall have been duly summoned to serve as a petit juror in any of the Superior or County courts of this Territory and shall fail to attend at said court without a good and sufficient cause, to be judged of by the court, shall be subject to a fine to be imposed as aforesaid not exceeding twenty dollars, and such cause shall be shewn and filed on oath with the clerk on or before the last of the next succeeding term of the courts, otherwise execution shall be forthwith issued in the name of the Territory, against the lands and tenements goods and chatties of the defaulting juror for such fine as the court shall direct and for the costs; and every person duly summoned to serve as a juror in any of the courts of the Justices of the Peace who shall fail to attend said court without a good and sufficient excuse, to be judged of by the justice of the peace, shall pay a fine of three dollars, and if such excuse be not made before such Justice of the Peace under whose precept he was summoned to attend as a juror, an execution for the amount of the said fine and costs shall be issued against the goods and chattels of such defaulting juror, to be levied as in other cases of execution.

In a Justices court.

Sec. 8. Be it further enacted, That the free white male inhabitants of the Territory of Florida above the age of twenty one years and under fifty years shall be liable to serve as petit jurors for the trial of criminal and civil causes, for the recovery of debts and damages to any amount whatsoever; but for the trial of all causes affecting title to real estate, the jury shall be composed of free holders only.

Qualification
of jurors.
in general.
To try title to
real estate.

Sec. 9. Be it further enacted, That Doctors of medicine and clergymen shall not be liable to serve as jurors within this Territory.

Exemptions.

Sec. 10. Be it further enacted, That hereafter it shall not be lawful for the marshals of the several judicial districts in this Territory to summon grand or petit jurors to attend the Superior courts held in any other county than the one in which such grand or petit jurors reside; Provided, there be a Superior court established by law in the county in which said jurors do reside.

To be sum-
moned for the
county in
which they
reside.

Sec. 11. Be it further enacted, That no person who has been convicted by the verdict of a jury of any crime or misdemeanor, the punishment of which extended to life or limb, or to cropping, branding, whipping, standing in the pillory or confinement in a Penitentiary shall

Persons con-
victed of infa-
mous crimes
incompetent.

serve as a juror either grand or petit, in any court of this Territory.

Passed 20th November, 1828.

PETER ALBA,
President of the Legislative Council.
THOMAS MUNROE, Clerk.

Approved, November 22nd, 1828.
WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Concerning forcible entry and detainer.

Entry to be
peaceable.

Sec. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That no person shall enter into any lands or tenements but in case where entry is given by law, and in such case not with strong hand, nor with multitude of people, but only in peaceable and easy manner, and that no person who shall have entered in peaceable manner shall hold the same afterwards against the consent of the party entitled to the possession thereof.

Remedy given
for forcible
entry &c.

Sec. 2. Be it further enacted, That if any person shall enter or shall have entered into any lands or tenements in case where entry is not given by law, or if any person shall enter or shall have entered into any lands or tenements with strong hand or with multitude of people, even in case where entry is given by law, the party turned out of possession by such unlawful or by such forcible entry, by whatever right or title he held such possession, or whatever estate he held or claimed in the lands or tenements of which he was so dispossessed shall at any time within three years thereafter be entitled to the summary remedy herein provided.

Unlawful de-
tainer.

Sec. 3. Be it further enacted, That if any person shall enter or shall have entered in a peaceable manner into lands or tenements in case such entry is lawful, and after the expiration of his right shall continue to hold the same against the consent of the party entitled to the possession, the party so entitled, whether as tenant of the freehold, tenant for years or otherwise shall be entitled to the like summary remedy at any time within

three years after the possession shall so have been withheld from him against his consent.

Sec. 4. *Be it further enacted*, That the party so turned out of possession, or so held out of possession, may exhibit his complaint before any Justice of the peace for the county, (or corporation) within which such lands or tenements may lie, in the following form or to the following effect; that is to say, "____ county (or corporation of _____) to wit, A. B. of the said county (or corporation) complains, that C. D. hath unlawfully (or forcibly,) turned him out of possession, (or unlawfully) and against his consent withdraws from him the possession, of a certain teneement, containing by estimation _____ of land, with the appurtenances, lying and being in the county or corporation aforesaid, whereof he prays restitution of possession" "A. B. plaintiff."

Form of complaint.

Sec. 5. *Be it further enacted*, That such complaint shall be verified by the oath or affirmation of the plaintiff certified at the foot thereof after the following manner : "____ county (or corporation,) to wit, this day the named A. B. made oath (or affirmation) before me, a Justice of the Peace for said county (or corporation) that he verily believes the allegations of the above complaint to be correct and true.

Manner of verification.

Given under my hand this _____ day of _____
E. F."

Sec. 6. *Be it further enacted*, That the justice before whom such complaint shall be made shall thereupon issue his warrant, to the following effect: _____

Form of warrant.

County (or corporation of _____) to wit, whereas, A. B. hath made complaint on oath (or affirmation) before me a justice of the peace for the said county, (or corporation,) that C. D. hath unlawfully (or forcibly) turned him out of possession, or unlawfully or against his consent holds him out of possession of a certain teneement containing by estimation _____ of land with its appurtenances, lying and being in the said county, (or corporation,) and hath prayed restitution of possession thereof: These are therefore in the name of the Territory to require you to summon the said C. D. to appear at the court house of your county, (or corporation,) on the _____ day of _____ before the justices of the county (or corporation) aforesaid to answer the complaint aforesaid; and also to require you

to summon at least twelve good and lawful men, being freeholders of your bailiwick and not of kin to either party, then and there to be attendant upon the said justices as jurors, to try the complaint aforesaid, also notify one other justice of the peace to attend at said time and place; and have then and there this warrant.

Witness my hand and seal this _____ day of _____ E. F.

To whom directed.

Sec. 7. Be it further enacted, That the warrant aforesaid shall be directed to the Sheriff, Marshal or Coroner, as the case may require, shall be made returnable on a day certain not less than ten nor more than twenty days after its date, and shall be forthwith executed by the proper officer, who shall make due return to the justices at the time and place therein mentioned of the manner in which he shall have executed the same.

How served.

Sec. 8. Be it further enacted, That the said warrant shall be served on the defendant at least eight days before the return day either by delivering him a copy thereof, or if he cannot be found, by delivering a copy to any white person of his family above the age of sixteen years at his usual place of residence, and if no such person be found, then by setting up a copy on some conspicuous place on the tenement in the warrant mentioned.

Subpoenas for witness.

Sec. 9. Be it further enacted, That at any time after such warrant shall have been issued, it shall be lawful for the justice issuing the same, or any justice of the peace for the county or corporation, or for the clerk of the county court, to issue subpoenas for witnesses, requiring them to attend at the court house before the justices at the time appointed as aforesaid, to give evidence on the trial; any subpoena so issued shall be executed in the same manner, and to all intents and purposes shall have the same force and effect as a subpoena issued according to law in a cause depending in a county court.

Duty and powers of the justices.

Sec. 10. Be it further enacted, That it shall be the duty of the justices notified as aforesaid, and of the justices who shall have issued the warrant, to attend at the court house on the day therein specified, for the purpose of holding a court for the trial of the complaint aforesaid, for which purpose such justices or any two of them, or any two or more justices of the county or corporation as the case may be, shall constitute a court; such court shall be considered a court of record, they shall have power to issue all proper process to bring before them

witnesses or other persons whose attendance may be lawfully required by them, and may adjourn from day to day, and from time to time, until the trial shall be ended; the Sheriff, sergeant, or Coroner as the case may require shall be attendant upon them and execute their orders, and the clerk of the county court shall attend them and shall record their proceedings in the proper book of his office, and file away and preserve the complaint and warrant aforesaid with all other papers exhibited on the trial.

Sheriff and
clerk of county
court, to at-
tend.

Sec. 11. Be it further enacted, That when the Justices shall have so met and formed a court on the day and at the place aforesaid, if it shall appear to them that the defendant has been duly served with the warrant agreeable to the requisitions of this act, they shall proceed without further pleadings in writing to empanel a jury for the trial of the complaint aforesaid ; the jury shall be composed of any twelve house keepers to whom neither party hath any legal exception, or if a sufficient number of such house keepers to whom neither party hath any legal exception be not attending, the deficiency shall be made up of bystanders, being house keepers of the county or corporation.

trial.

Jury.

Sec. 12. Be it further enacted, That when the jury shall have been so empanelled they shall be charged on oath in the following manner, that is to say, if the complaint be of a forcible entry, or of an unlawful entry, they shall be charged thus ; you shall well and truly try, whether the defendant C. D., at any time within three years next before the exhibition of the complaint filed by the plaintiff in this cause did forcibly or unlawfully enter upon the tenement in the said complaint mentioned, and turn the said plaintiff out of the possession thereof ; and whether the said defendant continued to hold the possession thereof at the time of the exhibition of said complaint, and you shall find a true verdict thereupon according to the evidence, so help you god. Or if the complaint be of an unlawful detainer against the consent of the plaintiff they shall be charged thus ; you shall well and truly try, whether C. D. against the consent of the plaintiff, holds possession of the tenement mentioned in the complaint filed in this cause, whether the said defendant hath so held possession thereof against the consent of the plaintiff, within three years next before the exhibition of the said complaint, and whether the plai-

Oath of jury in
case of forcible
entry.

Unlawful de-
tainer.

tiff has the right of possession in the tenement aforesaid, and you shall find a verdict thereupon according to the evidence, so help you god.

Sec. 13. Be it further enacted, That the jury being so empanelled and charged, the Justices shall then admit before them all legal evidence which shall be offered, as well on the part of the defendant as on the part of the plaintiff, shall suffer each party to be heard by counsel, shall decide all questions of law which shall be properly submitted to them in the course of the trial.

Sec. 14. Be it further enacted, That when the jury shall have unanimously agreed upon the verdict they shall find the same in the following form or to the following effect that is to say ;—In cases of forcible entry, or unlawful entry, thus ; we the jury find, that the defendant did or did not, within three years next before the exhibition of the complaint filed by the plaintiff in this cause, forcibly or unlawfully enter upon the tenement in the said complaint mentioned, and turn the plaintiff out of possession thereof, that the said defendant did or did not continue to hold the possession thereof at the date of the said complaint :—or in case of unlawful detainer against the plaintiff's consent, thus ;—we the jury find, that the defendant did or did not, at the time of the exhibition of the complaint filed in this cause, hold possession of the tenement herein mentioned against the consent of the plaintiff, that the said defendant hath or hath not so held possession thereof against the consent of the plaintiff within three years next before the exhibition of said complaint, and that the plaintiff hath or hath not the right of possession in the tenement aforesaid.

Sec. 15. Be it further enacted, That the verdict so found on complaint of a forcible entry or of an unlawful entry shall ascertain, that such forcible entry or unlawful entry as the case may be, whereby the plaintiff was turned out of possession was made by the defendant within three years before the exhibition of the complaint, and that the defendant's possession continued at the time of exhibiting the complaints, or if the verdict found as aforesaid upon a complaint of unlawful detainer, against the consent of the plaintiff, shall ascertain that the defendant at the time of the exhibition of said complaint held the possession of the tenement therein mentioned against the consent of the plaintiff, that the said defendant had not so held against the consent of the plaintiff

Evidence to be admitted &c.

Form of verdict, in case of forcible entry.

In case of unlawful detainer

Judgment of the court, on the verdict for plaintiff

within three years next before the exhibition of said complaint, and that the plaintiff hath the right of possession in the tenement aforesaid, then and in either of these cases, the Justice shall render judgment in favour of the plaintiff that he recover possession of the tenement aforesaid with full costs, and shall award a writ of *habere facias possessionem*.

Execution.

Sec. 16. *Be it further enacted*, That if the verdict found as aforesaid, in either of the said cases, shall be in favor of the defendant, the Justices shall render judgment against the plaintiff that his complaint be dismissed, and that the defendant recover of him full costs.

If verdict be
for defendant.

Sec. 17. *Be it further enacted*, That the judgment of the Justices rendered as aforesaid, either in favor of the plaintiff or in favor of the defendant shall in all respects be executed in the same manner, as if it had been the judgment of the court of the county at any ordinary term thereof; but if either party think himself aggrieved, he shall have a right to appeal to the next county court of the county, on filing with said Justices a traverse to this effect; A. B. says the inquisition in this case is not true, he therefore prays an appeal to the county court; upon which the Justices shall certify a copy thereof to the county court on the appellant giving bond and security, to be approved of by said Justices, to answer all costs occasioned thereby; Provided, that such traverse or appeal shall not operate to stay the writ of possession; but if judgment be given for the appellant on such appeal, restitution shall be awarded to him, and said traverse shall be tried as an original case and the verdict of the jury shall say, whether the said inquisition be true or not true, and judgment shall be pronounced and execution issue accordingly.

Appeal to the
county court.

Traverse.

Trial of tra-
verse.

Sec. 18. *Be it further enacted*, That no judgment rendered as aforesaid either for the plaintiff or defendant shall bar any action of trespass, or any writ of ejectment or writ of right between the same parties respecting the same tenement; nor shall any verdict found as aforesaid be held conclusive of the facts therein found in any such action of trespass, ejectment or writ of right.

Judgment
shall not bar
future action.

Sec. 19. *Be it further enacted*, That every juror summoned to attend the Justices aforesaid and failing to attend without sufficient cause therefor, shall be liable to a fine of sixteen dollars, to the use of the Territory, imposed by the Justices aforesaid.

Defaulting
jurors.

Fees of officers

Sec 20. Be it further enacted, That the Sheriff or other proper officer shall be allowed for his services in executing and returning the warrant aforesaid the sum of two dollars ; all other fees of officers for services rendered, in relation to the proceedings and trial aforesaid, shall be the same as the fees for similar services rendered in a suit at law respecting the title of land depending in a county court.

Passed 5th November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 10th 1828.

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT.

Regulating conveyances of real and personal property, and the recording thereof.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That no estate or interest of freehold, or for a term of years, of more than two years, or any uncertain interest of, in, or out of, any messuages, lands, tenements or hereditaments, shall be created, made, granted, conveyed, transferred or released, in any other manner than by deed in writing, sealed and delivered in the presence of at least two witnesses, by the party or parties creating, making, granting, conveying, transferring or releasing such estate, interest or term of years, or by his, her or their agent, thereunto lawfully authorised, unless by last will and testament or other testamentary appointment, duly made according to law ; and that from and after the day and year aforesaid, no estate or interest either of freehold or term of years, other than terms of years for not more than two years, or any uncertain interest of, in, to or out of, any lands, tenements, messuages or hereditaments shall be assigned or surrendered, unless it be by deed sealed and delivered in the presence of at least two witnesses, by the party or parties so assigning or surrendering, or by his, her or their agent thereto lawfully authorised, or by the act and operation of law.

Freehold interest and
term of years,
created only
by deed.

Now assigned
or surrendered.

Sec. 2. Be it further enacted, That all declarations and creations of trust and confidence of, or in, any messuages, lands, tenements or hereditaments, shall be manifested and proved, by some writing signed by the party authorised by law to declare or create such trust or confidence, or by his or her last will and testament, or else they shall be utterly void and of none effect: *Provided always*, that where any conveyance shall be made of any lands, messuages or tenements, by which a trust or confidence shall, or may arise or result by the implication or construction of law, or be transferred or extinguished by the act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect, as the same would have been, if this statute had not been made, any thing therein contained to the contrary thereof, in any wise notwithstanding.

Trusts how to
be declared
&c.

Where they
arise by act of
law.

Sec. 3. Be it further enacted, That all grants, conveyances or assignments of trust or confidence of, or in any lands, tenements or hereditaments, or of any estate or interest therein, shall be by deed, sealed and delivered in the presence of two witnesses by the party granting, conveying or assigning the same, or by his or her attorney or agent thereunto lawfully authorised, or by last will and testament duly made and executed, or else the same shall be void, and of none effect.

Assignment
of trusts, how
made.

Sec. 4. Be it further enacted, That no conveyance, transfer or mortgage of real property, or of any interest therein, shall be good or effectual in law, or in equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same shall be recorded in the office assigned by law for that purpose; and in order to procure the recording of any such conveyance, transfer or mortgage, the execution thereof, by the party making the same, shall be acknowledged by such party or shall be proved upon oath by at least one of the subscribing witnesses thereto, before the officer authorised by law to record the same, or before some judicial officer of this Territory; or if such conveyance, transfer or mortgage shall have been executed out of this territory, but within the United States, such execution shall be proved in the manner aforesaid, by at least one of the subscribing witnesses before the said recording officer, or by the acknowledgment upon oath of the party making such conveyance, transfer or mortgage, that he or she did execute the same for the purposes ex-

Conveyances
of real proper-
ties to be record-
ed.

Execution how
proved

pressed therein, and of the subscribing witnesses upon oath, that they did see the said party or parties execute the said conveyance, transfer or mortgage, and that they subscribed their names as witnesses thereto, made and taken before the clerk or prothonotary of any court of record of any of the States, Territories or districts of the United States; and the said acknowledgment so taken shall be certified by such clerk or prothonotary, under the seal of the court, if it have one, and if it have none, the fact shall be stated in the certificate; and the certificate of the said clerk or prothonotary shall be authenticated under the hand of the Judge or Justice, or one of the judges or justices of the court to which the said clerk or prothonotary belongs, by certifying that the person who certifies the said acknowledgment was, at the time of so doing, the clerk or prothonotary of the court of which he is a judge or justice; or, if such conveyance, transfer or mortgage shall have been executed out of the United States, such execution shall be proved before the said recording officer in manner aforesaid, or by the acknowledgment of the party or parties executing such conveyance, transfer or mortgage, and of the subscribing witnesses thereto, made and taken in the manner and to the effect last aforesaid, before any public minister, consul or vice consul of the United States, residing in the place or country in which the said acknowledgment may be taken, and the said acknowledgment so made and taken, shall be certified under the hand and seal of the office of the said public minister, consul or vice consul, commercial agent or vice commercial agent, by and before whom it shall have been made and taken; and upon any of the aforesaid proofs being made or exhibited to the said recording officer, of the execution of any conveyance, transfer or mortgage of real property, it shall be the duty of said officer to record the same according to law, upon being thereto required.

Sec. 5. Be it further enacted, That no mortgage of personal property shall be effectual or valid to any purpose whatever unless such mortgage shall be recorded in the office of records for the county in which the mortgaged property shall be, at the time of the execution of the mortgage, unless the mortgaged property be delivered at the time of execution of the mortgage, or, within twenty days thereafter to the mortgagee and shall continue to remain truly and *bona fide* in his possession; and

If made without the United States

Mortgages of personal property to be recorded

mortgages of personal property shall be admitted to record, upon proof of the execution thereof being made and exhibited to the recording officer, in any of the ways herein before prescribed for proving the execution of conveyances, transfers and mortgages of real property, or by proof being made upon oath by at least one credible person, before the recording officer, of the hand writing of the mortgagor or mortgagors, in cases in which there shall be no attesting witnesses to the mortgage.

How admitted
to record

Sec. 6. *Be it further enacted*, That from and after the passage of this act, slaves shall be deemed, held and taken, as personal property for every purpose whatever.

Slaves. per-
sonal property

Sec. 7. *Be it further enacted*, That dower in any lands, tenements or hereditaments in this Territory, may be extinguished, by the wife making herself a party to the conveyance of any lands, tenements or hereditaments in which she has, or may, or shall have, a right of dower, for the purpose of relinquishing the same, or she may by a separate relinquishment under her hand and seal executed in the presence of two witnesses, renounce her right of dower, and in no other way whatever: *Provided nevertheless*, and it is hereby declared, that such relinquishment or renunciation of dower, shall not in either case be valid against, or binding upon the wife executing the same, or any person or persons claiming through or under her, unless it be accompanied by an acknowledgement under the hand and seal of the wife, taken and made separately and apart from her husband, before some judicial officer of this Territory, where it shall have been made therein, that the said relinquishment and renunciation of dower is made freely and voluntarily, and without any compulsion, constraint, apprehension or fear of or from, the husband of the party making the said relinquishment; and when any such relinquishment of dower shall be made out of this Territory, the aforesaid acknowledgement shall, if made in the United States, be taken in the manner as aforesaid, by the clerk or prothonotary of some court of record in the State, Territory or District, in which it shall be made, in the presence of the judge or justice, or of one of the judges or justices of the court to which the clerk or prothonotary, who takes the acknowledgement shall belong, and such acknowledgement so taken, shall be certified by the clerk or prothon-

Dower, how
extinguished

Relinquish-
ment of dower,
when valid

octary taking it under the seal of the court, if it have one, and if it have none, it shall be stated in the said certificate, and the taking of the said acknowledgment and the certificate of the clerk or prothonotary, shall be authenticated under the hand of the judge or justice present at the making thereof, by his certifying, that the said acknowledgment was made in his presence, and that the person acting as clerk or prothonotary was, at the time of his so doing, the clerk or prothonotary of the court of which he is a judge or justice; and if any such relinquishment of dower shall be made out of the United States, the acknowledgment of the party making it shall be taken in the manner as aforesaid, by and before some public minister, consul or vice consul, commercial or vice commercial agent of the United States, residing in the country in which the acknowledgment may be taken, and shall be certified under the hand and the seal of office of such public minister, consul or vice consul, commercial agent or vice commercial agent.

Sec. 8. *Be it further enacted,* That it shall be the duty of the officers authorised by law to make and keep the record of conveyances, to record all conveyances, deeds, bills of sale, and all other written transfers of personal property, and all contracts and agreements for the sale of any personal property whatever, when thereto required, upon proof of the execution thereof being made upon oath before the recording officer, by a subscribing witness of such execution, or in any of the other methods herein before prescribed for proving the execution of conveyances of real property.

Sec. 9. *Be it further enacted,* That no deed, conveyance, mortgage or other transfer of any kind whatever of any lands, messuages, tenements or hereditaments in this Territory, or of any interest therein, or of any term of years, made or executed, in virtue of any power of attorney, shall be good or effectual in law or in equity, against creditors or subsequent purchasers for a valuable consideration and without notice, unless the execution of the power of attorney, under and in virtue of which, any such deed, conveyance, mortgage or other transfer may be made, be duly proved before the recording officer of the county in which the lands or tenements are situated, in some one of the ways herein before prescribed for procuring the recording of conveyances of real property, and be recorded at the time of recording the deed, con-

Duty of recording officers

Conveyances by powers of attorney when good

veyance, mortgage or other transfer, made under and in pursuance of it.

Sec. 10. Be it further enacted, That no action shall be brought whereby to charge any executor or administrator upon any special promise to answer, or pay any debt or damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract for the sale of lands, tenements or hereditaments, or of any uncertain interest in, or concerning them, or for any lease thereof for a longer term than one year, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement or promise upon which such action shall be brought, or some note or memorandum thereof, shall be in writing, and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorised.

Contracts or
agreements,
which must
be in writing

Sec 11. Be it further enacted, That no contract for the sale of any personal property, goods, wares or merchandise shall be good, unless the buyer shall accept the goods or part of them so sold, and actually receive the same or give something in earnest to bind the bargain, or in part payment, or some note or memorandum in writing of the said bargain or contract be made, and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorised.

Contracts for
the sale of per-
sonal property

Sec. 12. Be it further enacted, That by deed of bargain and sale, or by deed of lease and release, or of covenant to stand seized to the use of any other person, or by deed operating by way of covenant to stand seized to the use of another person, of or in any lands or tenements in this Territory, the possession of the bargainer, releasor or covenantor, shall be deemed and adjudged, to be transferred to the bargainee, licensee or person entitled to the use, as perfectly as if such bargainee, licensee or person entitled to the use, had been enfeoffed by livery of seizin, of the land conveyed by such deed of bargain and sale, release or covenant to stand seized: Provided, that livery of siezin can be lawfully made of the lands or tenements at the time of the execution of the said deeds, or any of them.

Possession an-
nexed to the
use, &c.

Sec. 13. Be it further enacted, That a deed of con-

Proviso

Deeds made
out of the Uni-
ted States
where the execu-
tion cannot be
made, as
before enacted,
how ad-
mitted to re-
cord

Proper officer
to record all
deeds &c

veyance of real estate, if made in a place beyond the limits of the United States, where there shall be no public minister, consul or vice consul, commercial agent or vice commercial agent of the United States, to certify the act of the grantor of such deed, and the testimony of the witnesses thereto, such act of the party may be made before two subscribing witnesses and a civil officer of such place, and the identity of such civil officer and credibility being certified by a consul, or vice consul in the United States, of the government of which such place may be a part; a deed thus certified, shall, if presented for record, be admitted to same as good and valid.

Sec. 4. Be it further enacted, That nothing in this act contained, shall be so construed as to authorise the officer appointed by law to make and keep the records of conveyances, to refuse to record any conveyance which may be offered, provided, its execution be duly proved.

Passed 5th, November 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved, November 15th 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Regulating the mode of proceeding by Attachment in the Superior and County Courts of this Territory.

Attachment,
by whom
granted and
how levied

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be lawful for any judge or clerk of the Superior or County Courts to grant writs of attachment directed to the ministerial officer of the Superior or County courts, commanding him to attach and take into custody so much of the lands and tenements, goods and chattels, rights and credits, in whose hand or possession soever the same may be found, of the person or persons against whose property the attachment is issued as will be sufficient to satisfy the demand of the plaintiff in attachment.

Sec. 2. Be it further enacted, That such writ shall in no case be issued unless the party applying for the same,

Oath of plain-
tiff in attach-
ment

his agent or attorney shall make oath in writing before such judges or clerks that the amount of the debt, sum or property claimed is actually due, that his or her debtor has removed or is actually removing him or herself out of the Territory or resides beyond the limits of the same or absconds or conceals him or herself, so that the ordinary process of law cannot be served upon him or her, to be particularly stated and set forth (and to be proved by the oath of at least one credible and disinterested witness,) he has reason to fear the loss of such debt, sum or property unless he shall be allowed such process of attachment.

Sec. 3. Be it further enacted, That before the issuing of said writ, the party applying for the same shall by himself or some other person in his behalf, enter into bond with two or more sufficient securities in a sum double the amount of the debt, sum or property claimed, payable to the defendant, conditioned that the said plaintiff will pay all costs and damages which may be occasioned by issuing said attachment and the failure to prosecute the same to effect.

Plaintiff give
bond &c

Sec. 4. Be it further enacted, That when a suit is commenced by attachment as aforesaid, it shall and may be lawful for the officer executing such writ of attachment to serve upon the person or persons who may be named by the said plaintiff as garnishee or garnishees, a notice requiring such garnishee or garnishees to appear at the term of the court where the said cause is to be tried, to set forth upon oath, what goods, chattels, money and effects belonging to said defendant were in their hands, power or control at the time of the service of such notice, and in what sum he or they were indebted to the said defendant at the time aforesaid: And upon the answer so made by the garnishee or garnishees, it shall and may be lawful for the said court to give judgment against the said garnishee or garnishees for the amount by them confessed to be due to the said defendant in attachment, and execution may issue for the same in favor of the plaintiff in such attachment.

Process of
garnishment

Sec. 5. Be it further enacted, That if any garnishee or garnishees shall deny upon oath, that he or they have any goods or effects of such defendant or that he or they are indebted to such defendant, or if the plaintiff in such attachment shall be dissatisfied with the statement of such garnishee or garnishees, it shall be lawful for the

Judgment on
answer of gar-
nishee

Traverse of
garnishee's
answer

plaintiff to make up an issue with such garnishee or garnishees and a jury shall be summoned and a trial had as in ordinary suits at law.

Replevin

Sec. 6. *Be it further enacted*, That the said property so attached may at any time be replevied and the attachment dissolved by the said defendant or some other person for him giving bond to the officer levying such attachment, payable to the plaintiff, with good and sufficient security in double the amount of the debt sworn to by the plaintiff, conditioned to abide the order and judgment of the court.

Effect of attachment

Sec. 7. *Be it further enacted*, That the service of an attachment shall not operate to dispossess the tenant of any lands or tenements; but such service shall bind the property attached except as against pre-existing liens.

Lein

Property attached, how disposed of

Sec. 8. *Be it further enacted*, That all personal property levied on by attachment unless replevied, shall remain in the custody of the officer who shall attach the same until the judgment of the court shall have been pronounced; but when the property attached shall be of a perishable nature, it shall or may be lawful for the judge or clerk who ordered the attachment, in vacation as well as in term time, to grant an order for the sale of such property after such public notice as to the said judge or clerk shall seem expedient, and the proceeds of such sale shall be paid into court and abide the judgment thereof.

Bonds to be filed in clerks office

Sec. 9. *Be it further enacted*, That all bonds required by the provisions of this act, shall be filed in the office of the clerk of the court whence the attachment shall have issued; and it shall be lawful at any time for the obligee or obligees of any such bond, his or their agent or attorney to move for judgment against all the obligors of such bond, upon giving ten days previous notice in writing of such motion to the said obligors, their agent or attorney.

Notice of attachment to be published

Sec. 10. *Be it further enacted*, That in all cases where property shall be attached and not replevied, a notice of the institution of the suit by attachment shall be published for three months in some public newspaper of the district, and if there be no newspaper published in such district, then by written advertisement in some public place, and such notice shall require the defendant and all other persons interested to appear and plead to

the declaration filed in such case; and it shall and may be lawful for the court upon satisfactory proof of the publication of such notice and upon the finding of a jury of inquest to be called for that purpose, to award their judgment upon such finding, and execution shall issue accordingly.

Sec. 11. *And be it further enacted,* That before the issuing of any execution upon such judgment, the plaintiff shall enter into bond with good and sufficient security, to be approved by the Judge or Clerk as aforesaid, conditioned that the said plaintiff shall refund to the said defendant, or garnishee the amount which may be made on such execution, if such defendant or garnishee shall within one year from the rendition of the said judgment appear and plead to the declaration filed in such cause, and shew cause sufficient to recover [reverse] such judgment.

Execution, &c
what terms
issued

Sec. 12. *Be it further enacted,* That in all cases where the property of infants, *femes covert*, lunatics, or persons laboring under other legal disabilities shall be attached, it shall and may be lawful for such persons at any time not exceeding two years after such disabilities are removed, to appear and plead according to the provisions of this act.

Saving to in-
fants, lunatics
&c

Sec. 13. *Be it further enacted,* That where administrators and executors reside, or have removed beyond the limits of this Territory and there are assets or other property of the testator or intestate in this Territory, it may be lawful for any person having claims on the estate of the deceased to take out an attachment for the same, agreeably to the provisions of the acts now in force regulating attachments, as will be sufficient to satisfy the demand of the plaintiff in the attachment.

Attachment a/
gainst absent
executors ad-
ministrators

Sec. 14. *Be it further enacted,* That executors and administrators, whose letters testamentary or of administration were granted in any State or Territory within the United States, and who have claims and demands as such against persons residing in the Territory of Florida, where such claims and demands originated in the jurisdiction of the State or Territory where such letters testamentary or of administration were granted, may and are hereby authorised to sue out attachments agreeably to the provisions of the acts now in force regulating attachments, the same as if their letters testamentary or of administration had been granted in

Foreign ex-
ecutors &c

the Territory of Florida; provided, that a certified copy of such letters testamentary or of administration, under the seal of the court in which the same were granted, shall be presented as evidence in such case.

Rules of practice

Sec. 15. *Be it further enacted*, That the filing of the declaration and other pleadings in a suit commenced by attachment, shall be governed by the same rules which govern such pleadings in ordinary suits at law.

Passed 18th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 20th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT.

To determine the fees of certain officers in this Territory, and for other purposes.

*Fees of the
Secretary of
Territory*

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the several officers hereinafter mentioned shall hereafter be entitled to demand and receive the following fees, for their services respectively:

To the *Secretary of the Territory*, for the duties hereinafter specified, to wit:

For official certificates, one dollar.

Affixing the seal of the Territory, one dollar.

For copying any public instrument or writing at the rate of twelve and half cents for each hundred words, to be paid by the person receiving the same.

Surveyor

The *Surveyor* of each county shall receive for his services, such fees and compensation as shall be fixed by the county court.

*Clerk court of
appeals*

The *Clerk of the Court of Appeals* shall receive the following fees:

For issuing a writ of error, one dollar.

For issuing *scire facias ad audiendum errores*, one dollar.

For filing returns of each of said writs, twenty five cents.

For entering the appearance of defendant in error, twenty-five cents.

For filing assignment of errors, twenty-five cents;

And the said clerk of the Court of Appeals as well as the clerk of the Superior and County Courts, shall also receive the following fees:

For entering the appearance of the defendant in person or by attorney, twelve and half cents.

For docketing any cause noticed for trial, twelve and a half cents.

For every writ of *subpoena* at law, or *subpoena* in chancery or other legal proceeding under the seal of the court, fifty cents.

Every rule entered in the common rule book, eighteen and three fourth cents.

Every order of court, twenty-five cents.

Administering every oath, twenty-five cents.

Recording any order, proceeding, bill of sale or other matter required to be recorded in a book, kept by the said clerk for that purpose, where the same shall not exceed two hundred words fifty cents, and twenty five cents per hundred words, where the same shall exceed two hundred words.

The clerk of the county court shall receive for each days attendance on said court, the sum of four doilars.

Copy of any paper where the same shall not exceed one hundred words, twenty-five cents, and where the same shall exceed one hundred words, twelve and a half cents for every hundred words.

Every search for a matter of one years standing, twenty five cents.

Ever search for a matter of less than one years standing, twelve and a half cents.

Every official certificate, twenty five cents.

Entering every judgment, twenty-five cents.

Drawing every advertisement, instructions attached to commissions for taking depositions, and all other papers or writings not herein otherwise provided for, where the same shall not exceed one hundred words, twenty-five cents,

And for every hundred words more than one hundred, twelve and a half cents.

Filing every paper, twelve and a half cents.

Enterig the return of every writ or other process, twelve and a half cents.

Clerk of superior and county court

Swear^{ing} every jury, one dollar.

Every distinct service for which no compensation is provided by this act, such compensation as may be fixed by the respective courts to be paid by the county.

JUSTICES OF THE PEACE.

Justices of the peace shall receive for their fees the following sums:

For superintending proceedings under the act concerning forcible entry and detainer, per day each, two dollars.

For attending the county courts on county business, two dollars each per day.

Every warrant, fifty cents.

Every attachment, fifty cents.

Every *venire*, fifty cents.

Summons for witness or garnishee, twenty-five cents.

Judgment by default or confession, twenty five cents.

Every other judgment, fifty cents.

Swearing a jury, thirty seven and half cents.

Every execution, fifty cents.

Taking and writing every bond, fifty cents.

Attending at the house of deponent to take depositions, one dollar.

Celebrating the rites of matrimony, one dollar.

Administering every oath, twelve and a half cents.

For writing and taking every affidavit, twenty five cents.

Provided, That no fee shall be allowed any justice of the peace for swearing any witness in a suit tried before him.

For taking a release or relinquishment of dower, one dollar.

NOTARIES PUBLIC.

Notaries Public shall receive the following fees.

For protesting bill of exchange or promissory note and registering the same, two dollars.

Noting bill of exchange for non acceptance or non payment, fifty cents.

Administering every oath, twelve and a half cents.

Writing every affidavit, twenty five cents.

Attending at a demand, tender or deposit and noting the same, one dollar.

Certificate and seal to power of attorney, fifty cents.

Noting protest of a Captain of a vessel, five dollars, and for extenuating the same, thirty cents for every hundred words.

For every certificate, fifty cents.

For registering every foreign protested bill or protest, fifty cents.

Comparing all papers already written, six and a quarter cents for every hundred words.

KEEPERS OF THE ARCHIVES.

Keepers of the
archives

Keepers of the archives shall receive for their services the following fees ;

For the copy of every paper or document not exceeding one hundred words, twenty five cents, and if exceeding one hundred words, twenty five cents per hundred words.

For comparing all papers already written, six and a quarter cents for every hundred words.

For every search for the first year twenty five cents, and for every year more than one, twelve and a half cents.

For each official certificate of office under seal, one dollar.

For every attendandance on a *subpoena duces tecum* one dollar and fifty cents per day, and for mileage the same fees as are allowed sheriffs.

MARSHALS AND SHERIFFS.

Marschals and
Sheriffs

Marshals and Sheriff's shall receive the following fees for their services:

For levying an attachment two dollars, and if on real estate one dollar.

For summoning garnishee, fifty cents,

For serving a *scire facias*, one dollar.

For serving *capias ad respondendum*, fifty cents.

For serving *summons ad respondendum*, fifty cents.

For summoning each witness, fifty cents.

For the return of every process, twelve and a half cents.

For recording each execution, twenty five cents.

For executing a peace or search warrant, two dollars.

For each copy where one is required, if not exceeding one hundred words, twenty five cents, for each succeeding one hundred words twelve and a half cents.

For arresting a person, two dollars.

- For taking bail, fifty cents.
- For executing *habere facias possessionem*, two dollars.
- For carrying a prisoner to jail or removing a prisoner, ten cents for each mile.
- For committing prisoner to jail, one dollar.
- For releasing prisoner, twenty five cents.
- For serving a *fiari facias*, one dollar.
- For levying a *fiari facias* and making the money thereon, for the first five hundred dollars five per cent, and for the remainder two and a half per cent, but whenever the sale under any execution shall be stayed by injunction or otherwise, then only half of the above commissions shall be allowed.
- For serving a *capias ad satisfaciendum*, two dollars for each defendant.
- For serving a writ of *habeas corpus*, two dollars.
- For making money on *ca sa*, the same commission as is allowed on a *fi fa*, where no sale takes place.
- For whipping a free person by order of court, five dollars.
- For keeping every slave taken in execution or on attachment, twenty five cents per day; such slave being allowed half a pound of salt meat or beef per day, and one peck of good Indian corn per week, or such other rations as may be equivalent thereto.
- For calling a jury in each suit, fifty cents.
- For every summons or notice not herein provided for, twenty five cents.
- For summoning jury upon an inquisition in the county, four dollars.
- For serving *subpoena* in chancery, fifty cents.
- For serving attachment for contempt, one dollar.
- For taking bonds of every kind, fifty cents.
- For every miles travel in the service of any process, four cents per mile going and four cents per mile returning.
- For keeping cattle, horses or hogs taken in execution, such reasonable amount as the said sheriff shall be obliged to pay for the same, to be allowed by the Judge of the court from which execution may have issued and to be paid by the defendant.
- For all services on behalf of this Territory, such compensation as shall be allowed by the Superior or County court to be paid out of the Treasury.
- For all services on behalf of the county such compen-

sation as shall be allowed by the county court to be paid out of the County Treasury.

CONSTABLES.

Constables

Constables shall receive for their services, the following fees:

Serving a warrant in civil cases, fifty cents.

Levying an execution, fifty cents.

Levying an attachment, fifty cents.

Serving a peace or search warrant, one dollar.

Carrying a prisoner to jail or removing him from one jail to another, ten cents per mile.

For collecting money under executions, the same commissions as are allowed by law to sheriffs.

For summoning a jury, seventy five cents.

For serving every notice or summons, twenty five cents.

For every mile travel in the service of process, the same fee as the Sheriff.

And it shall be the duty of said constable to pay over all monies by them collected to the party or parties entitled to the same.

CORONERS.

Coroners

Coroners shall receive for their services, the following fees :

For summoning a jury and taking an inquisition on a dead body, to be paid out of the estate of the deceased if the same be sufficient, if not by the county, eight dollars.

JAILERS.

Jailers

Jailers shall receive for their services the following fees :

For putting in prison and releasing, each twenty five cents.

Keeping and providing for a debtor in jail, fifty cents per day.

Keeping and providing for other prisoners, thirty seven and a half cents per day.

For all services on behalf of the county, such compensation as shall be allowed by the county court, to be paid out of the County Treasury.

The Judges of the County Court.

Judges of the
county court

The judges of the County Court shall receive the following fees.

For the necessary orders for the probate of any will or for letters testamentary or of administration on the same, or for letters of administration on the estate of any intestate, two dollars and fifty cents.

*** For every order at chambers seventy five cents.**

For their attendance each day of the session of said court, three dollars to be paid out of the County Treasury.

Prosecuting attorney

That the several Attorneys or their deputies whether the same be appointed by the attorneys, or the court, prosecuting for and in behalf of the territory, shall receive the following compensation for their services:

For every bill of indictment found true by the Grand jury, five dollars.

For every indictment prosecuted to effect (where the offence charged is not of a capital nature) five dollars.

For every indictment where the offence charged is of a capital nature prosecuted to effect, ten dollars.

For every civil action commenced in behalf of the Territory and prosecuted to effect, fifteen dollars where the amount recovered shall exceed one hundred dollars, and five dollars for any sum under that amount, and the several fees hereby provided for shall in all cases be taxed in the bill of costs and collected with other costs of the case.

Translators

The translators of the courts in this Territory shall receive for their services the following fees.

For every instrument under one hundred words and for certificate of the same, twenty five cents.

For every instrument above one hundred words twenty five cents every hundred words, and for every certificate except in the case above, twenty five cents.

WITNESSES IN COURT.

Witnesses

Every witness shall receive for his attendance upon the Superior or County courts per day, seventy five cents, for every twenty miles travel to and from the place of holding court, fifty cents,

For testifying before justice of the peace, twenty five cents.

JURORS.

Jurors

That in all civil cases jurors shall receive for their services twenty five cents each for every verdict by them delivered, and the amount due to each jury shall be paid to the foreman of such jury by the plaintiff in the action previously to the delivery of their verdict to the clerk.

Sec. 2. Be it further enacted, That the names of as many witnesses may be inserted in one subpoena as the party demanding the subpoena may require, and that not more than three subpoenas shall be charged for by the clerk, to any party at any one term.

Subpoenamay contain as many names as necessary.

Sec. 3. Be it further enacted, That when any officer shall perform any service under and by virtue of any law in this Territory, and no compensation shall be provided for, this law for such officer, he shall receive the same compensation as is allowed by law to any other officer for the same or for similar service, and where no compensation is provided by law for such service, he shall be entitled to receive therefor a reasonable compensation, to be taxed by a Judge of the county court of the county in which such officer shall reside, or such service shall be performed.

Compensation where no fee is fixed.

Sec. 4. Be it further enacted, That the costs of a suit in the court of any justice of the peace in this Territory, shall not exceed the sum of four dollars, exclusive of mileage, and if any justice of the peace or constable within this Territory shall ask, demand or receive any greater sum than four dollars exclusive of mileage, for, or on account of the costs of any suit before any justice of the peace of this Territory, the excess over and above four dollars so demanded, shall and may be recovered of said justice or constable, before any justice of the peace of this Territory with triple damages and triple costs.

Costs in justices court not to exceed \$4

Sec. 5. Be it further enacted, That if any officer of this Territory shall ask, demand or receive, under any pretence a greater amount of fees for the services herein mentioned than is allowed by this act, or if any officer who is not expressly authorised by this act to charge fees, shall demand or receive any fees for services actually rendered, which are not expressly provided for by this act, then and in every such case the officer so offending shall and may be indicted for the same, and the indictment shall charge extortion, and the officer so offending shall be punished by a fine, not more than one hundred and not less than ten dollars.

Extortion

Sec. 6. Be it further enacted, That the Judges of the Superior and county courts of this Territory, are hereby authorised and required to provide for their said courts respectively, seals with suitable devices and inscriptions, which said seals when so provided shall be deposited in the office of the clerk of said courts respectively, and

Punishment

Judges to provide seals for their courts.

until seals shall be so provided for said courts, the process issuing out of the said courts without a seal, shall have the same force and effect as if a seal were affixed thereto.

Bill of costs to be appended to ex' on.

Sec. 7. *Be it further enacted,* That in all cases where execution may issue from the Superior or Inferior courts of this Territory, the clerk of the court or justice of the peace shall append thereto a bill of all the costs and charges to be paid by the defendant in execution, enumerating particularly and in detail each and every item.

Bill of costs to contain all the items.

Sec. 8. *Be it further enacted,* That it shall not be lawful for any officer in this Territory to demand or receive any fee or fees mentioned, allowed or provided for by this act, unless he shall tender to the person from whom such fee or fees may be demanded, a bill specifying particularly and separately the fees demanded as aforesaid.

Passed 19th November 1828.

PETER ALBA.

President of the Legislative Council:

THOMAS MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Relating to crimes and misdemeanors committed by slaves, free negroes and mulattoes.

Who shall be deemed slaves

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all persons lawfully held to service for life, and the descendants of the females of them within this Territory, and such persons and their descendants as may hereafter be brought into this Territory pursuant to law, being held to service for life or a given time by the laws of the State or Territory from whence they were removed, and no other person or persons whatsoever shall henceforth be deemed slaves: That it shall not be lawful to bring into this Territory and to hold therein, any slave or slaves born without the United States or any Territory thereof, except such slaves as

Importation of foreign slaves, prohibited.

at the time of their removal were residents within the limits aforesaid, nor such as shall have been convicted of any offence and transported therefor under the laws of any State, Territory or district.

Sec. 2. *Be it further enacted*, That it shall not be lawful for any person whatsoever to bring into this Territory or to hold therein, after the passage of this act, any slave or slaves that shall have been convicted of any offence and therefor transported by the laws of any State, Territory or district ; and if any person shall bring into this Territory, contrary to the provisions of this act, any such slave or slaves, or shall sell, purchase or hold in this Territory, any such slave or slaves, knowing such slave or slaves to have been brought into this Territory contrary to the provisions of this act, every such person so offending shall be liable to be indicted, and on conviction shall pay a fine of two hundred and fifty dollars ; and all such fines shall be appropriated to the use of the literary fund, and moreover, every such person so offending shall give bond and security to the Judge of the Superior Court for the county in which such slave or slaves shall be, in the price of such slave or slaves, that he will remove him, her or them out of the Territory, within twenty days after the giving of such bond ; provided however, that the penalty shall not be incurred by any person bringing into this Territory any slave or slaves for the purpose only of passing through, or for a short time abiding therein, if such slave or slaves be not kept within this Territory for one whole year, or sold or offered for sale therein ; and provided also, that nothing in this section shall be so construed as to extend to any slave that shall be at this time in the Territory.

Sec. 3. *Be it further enacted*, That it shall not be lawful for any person or persons, except it be such persons as are removing to this Territory for the purpose of making a settlement therein, to import into this Territory from any of the United States, Territories or districts thereof, any slave or slaves either negro or mulatto, or of any other description whatsoever above the age of twelve years, without having previously obtained a certificate signed by the Judge of the county court or any two justices of the peace in the county of the State, Territory or district from which such slave or slaves is, or are brought, which certificate shall contain a particular description of the stature and complexion of such slave

Importation of
slaves convicted
of crimes prohibited.

Penalty.

Proviso.

Certificate to
accompany
importation of
slaves.

or slaves, together with the name age and sex of the same, and furthermore, that the slave or slaves therein mentioned and described have not been guilty of, or committed murder, burglary, arson or other felony within their knowledge or belief in such State, Territory or district.

Sec. 4. Be it further enacted, That any person who shall sell any slave or slaves brought into this Territory as merchandize, shall cause to be registered with the clerk of the county court of the county where such slave or slaves is or are first sold, every certificate as aforesaid, the seller previously swearing that he believes that the contents of such certificate are, to the best of his belief, just and true, which oath said clerk is hereby authorized to administer, for which, and recording the certificate, he shall receive the sum of one dollar.

Sec. 5. Be it further enacted, That if any person shall sell or purchase any slave or slaves, without having complied with the provisions of this act, he, she or they so offending, shall pay the sum of fifty dollars for every slave so purchased or sold, recoverable in any court having competent jurisdiction, one moiety to go to the Territory for the use and benefit of the literary fund, the other to the person prosecuting the same to effect.

Sec. 6. Be it further enacted, That if any vendor of any slave or slaves shall cause to be registered any fraudulent certificate of any slave or slaves, he, she or they so offending, shall for every slave so enumerated in such certificate or certificates, forfeit and pay the sum of five hundred dollars, recoverable in any court having jurisdiction of the same, one moiety to the Territory for the use and benefit of the literary fund, and the other to the person prosecuting the same to effect, and moreover, shall be subject to the pains and penalties of perjury.

Sec. 7. Be it further enacted, That if any slave shall presume to come and be upon the plantation of any person whatsoever, without the leave in writing from his or master, employer or overseer, not being sent upon lawful business, it shall be lawful for the owner or overseer of such plantation to give or cause to be given to such slave, ten lashes on his or her bare back for every such offence.

Sec. 8. Be it further enacted, That no pass or permission to any slave to buy or sell, shall be deemed good and sufficient to authorize such slave to buy or sell any article whatever, unless such pass or permission be sign-

**On sale of
slave, certifi-
cate to be re-
corded.**

**'Penalty for vi-
olation of the
above provi-
sions.**

**Registering
false certificate**

Punishment

**Slaves trespass-
ing.**

**License to buy
or sell.**

ed by the master, employer or overseer of such slave, and any slave attempting to utter a pass or permission to buy or sell, other than above expressed, or offering any article or articles for sale without such pass or permission, and being found guilty thereof, before any justice of the peace, shall receive not exceeding thirty-nine lashes by order of said justice, well laid on his or her bare back, and the person knowingly buying from a slave under such pass or permission, shall forfeit for such offence the sum of fifty dollars, to be recovered before any justice of the peace of the county, one half for the use of the person suing for the same, and the other half for the use of the literary fund.

Sec. 9. Be it further enacted, That no free negro or mulatto (except in the cities of St. Augustine and Pensacola, and in which cities they shall be governed by the ordinances of the corporation) shall be suffered to keep or carry any firelock of any kind, or military or other weapons, or any powder or lead without first obtaining a license from a justice of the peace of the county or corporation in which he resides, which license may at any time be withdrawn by an order of such justice; any free negro or mulatto who shall so offend, shall on conviction before a justice of the peace, forfeit all such arms and ammunition to the use of the informer.

Sec. 10. Be it further enacted, That it shall be the duty of any constable of the district to give information against, and prosecute any free negro or mulatto who shall keep or carry any arms or ammunition contrary to this act.

Sec. 11. Be it further enacted, That if any free negro or mulatto who shall have been convicted of keeping or carrying arms or ammunition, shall a second time offend in like manner, he shall in addition to the forfeiture aforesaid, be punished with a fine not exceeding twenty dollars, or stripes, at the discretion of a justice of the peace, not exceeding thirty-nine, the fine when collected as aforesaid, shall be paid into the county treasury for the use of the county.

Sec. 12. Be it further enacted, That every person other than a negro who shall have one fourth part or more of negro blood, shall be deemed a mulatto.

Sec. 13. Be it further enacted, That riots, routs and unlawful assemblies, quarrels, fighting, trespasses and seditious speeches by free negroes and mulattoes, slave

Negro &c.
carrying fire
arms.

Duty of con-
stable.

Penalty for a
second offence

Mulatto.

Riots, routs &
seditious spee-
ches &c.

or slaves, shall be punished at the discretion of a justice of the peace with a fine not exceeding twenty dollars, or stripes not exceeding thirty-nine.

White person participating.

Sec. 14. *Be it further enacted,* That if any white person shall at any time be found in company with slaves, free negroes or mulattoes at any unlawful meeting or assembly, participating with them in their unlawful acts, on oath thereof being made before a justice of the peace, such justice shall forthwith issue his warrant commanding such person to be brought before him, whose duty it shall be to bind over such person with good security, to appear at the next Superior court of said county, to answer to said charge, and failing to give bond and security, he shall be imprisoned, and on conviction thereof, such person shall be fined in a sum not exceeding one hundred dollars for every such offence, for the use of the county, or he shall receive thirty-nine lashes, or be imprisoned not exceeding two months at the discretion of the court.

Duty of justice of the peace, on information of, &c

Duty of Sheriff's, Constables &c.

Negro or mulatto when a witness.

Buying from slave on the sabbath without license.

Sec. 15. *Be it further enacted,* That every justice of the peace, upon his own knowledge of such unlawful assembly or meeting, or information thereof to him made within ten days thereafter, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before him or some other justice of the county or corporation to be dealt with as this act directs; and every justice failing therein shall forfeit and pay ten dollars for every such person; and every sheriff, marshall, under sheriff or constable upon knowledge or information of such assembly or meeting together, failing to endeavor to suppress the same, and bring the offender or offenders before some justice of the peace to receive due punishment, shall be liable to the like penalty of ten dollars, both which penalties shall be for the use of the county, and recoverable with costs before any justice of the peace of the county or corporation, wherein such failure shall be.

Sec. 16. *Be it further enacted,* That any negro or mulatto, bond or free, shall be a good witness in the pleas of the Territory for or against negroes or mulattoes, bond or free, or in civil causes where free negroes or mulattoes shall alone be parties, and in no other causes whatever.

Sec. 17. *Be it further enacted,* That any person who shall on the Sabbath day buy, sell or receive of, to or from a slave, any commodity whatsoever, without the leave or consent of the master, employer or overseer of

such slave, given in writing or by some token, or shall buy, sell or receive of, to or from any negro or mulattoe any commodity whatever on the day aforesaid shall in addition to the penalties aforesaid, forfeit and pay the sum of five dollars, to be recovered by warrant for the use of the county.

Sec. 18. *Be it further enacted,* That if any master or employer of a slave shall license such slave to go at large and trade as a freeman (except in the cities of Pensacola and St. Augustine,) the master or employer shall forfeit and pay the sum of fifty dollars to the county Treasurer for the use of the county, to be recovered by him before any court having jurisdiction; and if after conviction, such slave shall be so found going at large and trading, the master or employer shall again be liable to the like penalty, and so as often after conviction as such slave shall be found so going at large and trading.

Owner permitting slave to trade &c.

Sec. 19. *Be it further enacted,* That any person who shall suffer a slave held by him or her as trustee, guardian, executor or executrix, administrator or administratrix, (except in the cities of St. Augustine and Pensacola) to hire himself or herself out, contrary to the provisions of this act, shall forfeit and pay fifty dollars for each and every such offence, to be recovered by any person who shall sue for the same by action of debt in any court having jurisdiction, one half for the use of the county, and the other half for the use of the person suing.

Trustee, Executor &c. permitting slave to trade.

Sec. 20. *Be it further enacted,* That it shall and may be lawful for any citizen of this Territory on seeing any slave or slaves offering or carrying for sale any article or articles whatsoever, without a written permission from his or their master, employer or overseer specifying the article or articles so permitted to be sold or offered for sale, to apprehend and take the said slave or slaves before any Justice of the peace, and on its appearing satisfactorily to such justice, that the said slave had no permission or authority from his or their master, overseer or employer, as required by this act, to sell or offer for sale such article or articles, then and in all such cases, it shall be the duty of such justice to order and direct that every such article or articles offered for sale by such slave or slaves be forfeited to the apprehender of such slave or slaves, for his own use, and shall moreover order and direct said slave or slaves to receive on his or

Slave offering articles for sale without license, may be arrested and punished.

their bare back ten lashes ; Provided, that nothing in this act shall be construed to alter or abolish any of the penalties incurred by persons who shall trade or barter with slaves without permission in writing from their master, overseer or employer as herein provided for by this act ; and provided also, that nothing in this act shall be so construed as to alter or change the right of property in any article or articles which may be stolen by any such slave and offered for sale as aforesaid.

Free negro
selling liquor
to slave.

Sec. 21. *Be it further enacted,* That any free negro or mulatto who shall sell to any slave or slaves any ardent or intoxicating liquors, contrary to the provisions of this act, upon conviction thereof before any justice of the peace shall forfeit and pay ten dollars for the use of the county, or shall receive not exceeding thirty nine lashes by order of such justice, on his or her bare back.

Assault up-
on a white
person.

Self defence.

Runaway
slaves.

Duty of jailer
on commit-
ment of runa-
way.

Sec. 22. *Be it further enacted,* That if any negro or mulatto, bond or free, shall at any time use abusive and provoking language to, or lift his hand in opposition to any person not being a negro or mulatto, he, she or they so offending shall for every such offence, proved by the oath of the party before a justice of the peace of the county or corporation where such offence shall be committed, receive not exceeding thirty nine lashes on his or her bare back, except in those cases where it shall appear to such justice, that such negro or mulatto was wantonly assailed and lifted his hand in his or her own defence.

Sec. 23. *Be it further enacted,* That all runaway slaves may be lawfully apprehended by any person and carried before the next justice of the peace, who shall either commit them to the county jail, or send him to the owner, employer or overseer if known, who shall pay for every slave so taken up the sum of five dollars to the person apprehending him or her, and also all reasonable costs and charges ; Provided, that any slave who shall absent him or herself a greater distance than five miles from his or her usual place of residence or owners service, without the leave of his or her owner, overseer or master in writing, such slave shall be deemed to be a runaway.

Sec. 24. *Be it further enacted,* That where any slave shall be committed to the jail of any county within this Territory as a runaway, it shall be the duty of the sheriff or jailer forthwith to cause an advertisement with a de-

scription of the person and wearing apparel of the runaway, to be inserted in some public new-paper of the Territory most convenient to the place where such slave shall be committed, for the space of six months, and if such runaway slave shall not be claimed and proved by the owner thereof at or before the expiration of one year, from the first publication of the commitment of such slave, it shall be lawful for the sheriff of the proper county to sell such runaway slave at public auction at the court house of the county, upon giving at least thirty days notice thereof, and also by advertisement in some newspaper in this Territory at the court house of the county and two other public places in the same, and out of the proceeds arising from the sale of any runaway slave as aforesaid, the sheriff shall be entitled to the same commission and fees as are allowed by law in the case of execution, and the balance after paying for apprehending and all prison fees and the maintenance of said slave whilst in jail shall be for the use of the county; Provided, that if the owner of such runaway slaves shall after such sale prove his property in any such slave, the county Treasurer shall pay to him the amount that shall have been paid into the county Treasury on account of the sale of such slave, but the right to any slave sold as aforesaid shall be and remain vested in the purchaser under the sale made by the sheriff as aforesaid, any law to the contrary notwithstanding.

Sec. 25. Be it further enacted, That no runaway slave shall be delivered to the owner or person claiming him or her, unless he shall have proved before the judge of some county court or justice of the peace of the county or corporation in which such slave is confined, by his own oath or the oath of some other person, that he had lost such an one as was described in the advertisement, and that the runaway when shewn to him is the same that he lost; and shall moreover produce the clerks or justices certificate of such proof made, and shall pay the expences incurred in the apprehension and securing of said runaway slave; Provided however, that nothing in this section shall be so construed as to prevent any jailer, sheriff or other officer from delivering any runaway slave to his owner, employer or overseer without proof as aforesaid, where such owner, employer or overseer is known to the jailer, sheriff or other officer, and they are

If not claimed
may be sold.

Proof to be
made by claim-
ant of runa-
way.

satisfied that such slave belongs to the person claiming the same.

Slaves lying out &c. how apprehended.

Reward.

Owner of ferry permitting slave to cross.

Fee to Indian agent, for taking up runaway.

Sec. 26. *Be it further enacted,* That whereas many times slaves runaway and lie out hid and lurking in swamps, woods and other obscure places, killing hogs and committing other injuries to the inhabitants of the Territory; Therefore be it enacted, that in all such cases upon intelligence given of one or more slaves lying out as aforesaid, any justice of the peace of the county where the slaves are supposed to lurk or do mischief, shall be and he is hereby empowered and required by warrant, reciting their names and owners names if known, to direct the leader of any patrol detachment within his jurisdiction to take such power with him as he shall think necessary for the effectual apprehension of such lying out slave or slaves, and go in search of them, and upon their being apprehended to commit them or any of them to the jail of his county for further trial; and for every such out-lying slave by him apprehended and committed to jail as aforesaid, he shall be entitled to a reward of ten dollars to be paid out of the Treasury of the county, which sum shall be reimbursed to the county by the owner of the slave or slaves, before such shall be delivered to such owner.

Sec. 27. *Be it further enacted,* That if any owner of any ferry or toll bridge within this Territory, shall allow any slave to cross such ferry or bridge without a pass or permission in writing from the master, employer or overseer of such slave, he or she shall forfeit and pay to the party aggrieved, the sum of fifty dollars, recoverable before any justice of the peace of the county where the offence shall have been committed.

Sec. 28. *Be it further enacted,* That it shall be lawful for any Indian agent within this Territory to demand and receive from the owner, employer or overseer the sum of ten dollars for each runaway slave taken up within their respective agencies, five dollars of which money shall be paid to the person taking up such slave by the agent, and the balance to be retained and expended as the agent may think proper, in building jails or procuring irons for the confinement and better securing of all runaway slaves within their respective agencies; and there shall be allowed for the daily subsistence of each runaway slave, the sum of twenty five cents, to be paid by the master, employer or overseer of such slave.

Sec. 29. Be it further enacted, That the Indian agents within this Territory shall report to the Governor annually the amount received for runaway slaves, and how applied, and they shall not be authorised to make any other charge for runaway slaves except as is provided by this act.

Agent shall
make report
thereof annu-
ally.

Sec. 30. Be it further enacted, That it shall be the duty of Indian agents to advertise all runaway slaves in their custody, in the same manner as is required by this act of sheriffs and other officers of this Territory, and the owner, employer or overseer of the slave or slaves, shall pay the usual expense thereof.

Shall adver-
tise runaways

Sec. 31. Be it further enacted, That no cruel or unusual punishment shall be inflicted on any slave within this Territory, and any master, employer or overseer or any other person entitled to the service of any slave, who shall inflict such punishment, or shall authorise or permit the same to be inflicted, shall on conviction thereof, before the Superior Court, be fined according to the magnitude of the offence at the discretion of the court, in any sum not exceeding five hundred dollars, to be paid into the Treasury of the Territory for the use of the literary fund.

Cruel and un-
usual punish-
ment of slaves.

Sec. 32. Be it further enacted, That if any person possessed of a life estate in any slave or slaves, shall remove or voluntarily permit to be carried or removed out of this Territory, such slave or slaves, or any of their increase, without the consent of him or her in reversion or remainder, such person or persons shall forfeit such slave or slaves so removed, or the full value thereof unto the person or persons who shall have the reversion or remainder thereof, any law, custom or usage to the contrary notwithstanding.

Removing
slaves to the
injury of re-
mainderman.

Sec. 33. Be it further enacted, That if any female possessed as aforesaid, shall be married to a husband who shall remove, or voluntarily permit to be removed, out of this Territory, any such slave or slaves, or any of their increase without the consent of him or her in reversion or remainder, in any such case it shall be lawful for him or her in reversion or remainder to sue for, recover and possess such slave or slaves so removed, for, and during the life of said husband, or sue for the full value of the slave or slaves so removed.

Husband re-
moving ne-
groes held by
his wife for her
life.

Sec. 34. Be it further enacted, That if any negro or other slave shall at any time consult, advise or conspire to rebel or make insurrection, or shall plot or conspire

Conspiracy
to rebel or
murder.

the murder of any free white person or persons whatsoever, every such consulting, plotting or conspiracy shall be adjudged and deemed felony, and the slave or slaves convicted thereof, shall suffer death.

Assault with intent to kill. Sec. 35. *Be it further enacted,* That if any slave or slaves shall at any time, commit an assault and battery upon any white person with intent to kill, every such slave or slaves, so committing such assault and battery with intent to kill as aforesaid, and being thereof convicted, shall suffer death.

Poisoning.

Sec. 36. *Be it further enacted,* That if any slave, free negro or mulatto shall prepare, exhibit or administer any poison or medicine whatever, with intent to kill any person or persons, he or she so offending shall be adjudged guilty of felony, and shall suffer death.

Punishment for felonies not capital.

Sec. 37. *Be it further enacted,* That when any negro or mulatto slave shall be convicted of any felony not punishable with death, such negro or mulatto slave shall be whipped, not exceeding one hundred lashes by the proper officer of the court, and suffer such other corporal punishment as the court shall think fit to inflict.

Maiming.

Sec. 38. *Be it further enacted,* That if any slave shall maim a free white person, or shall attempt to commit any capital offence, or shall be guilty of manslaughter of any person, or shall be guilty of burning any dwelling house, store, cotton house, gin or out house, barn or stable, or shall be accessory thereto, or shall be guilty of any of the crimes aforesaid, or any other crime made capital by law, or shall be accessory thereto, every such slave shall on conviction thereof, suffer death, or be whipped not exceeding thirty-nine stripes, and have his or her ears nailed to posts, and there to stand for one hour or shall have his or her hand burnt with a heated iron in open court, at the discretion of the court.

Manslaughter or arson.

Sec. 39. *Be it further enacted,* That if any negro or mulatto, shall assault any white woman or child, with an intent to commit a rape, such negro or mulatto shall be cropped, branded or suffer death, at the discretion of the court.

Assault with intent to rape.

Sec. 40. *Be it further enacted,* That if any slave or slaves shall feloniously take, steal and carry away, any goods or chattels, he, she or they so offending and being thereof legally convicted before any justice of the peace, shall be deemed guilty of larceny, and the master, employer or overseer of slave, shall restore the goods and

Larceny

chattels so stolen, if recovered, to the owner or owners thereof, and any slave so offending, or who shall be accessory thereto, before the fact, shall receive any number of lashes not exceeding thirty-nine on his or her bare back by order of the justice; and the master, employer or overseer of such slave, shall stand charged with the costs of prosecution.

Sec. 41. Be it further enacted, That if any negro or mulatto, bond or free, shall be found guilty of giving any false testimony, every such offender shall have his or her ears nailed to posts and there to stand for one hour, and moreover, receive thirty nine lashes on his or her bare back.

Perjury.

Sec. 42. Be it further enacted, That no person having an interest in a slave shall set upon the trial of such slave.

Juror.

Sec. 43. Be it further enacted, That if any person shall keep or cause to be kept, any slave on a plantation or settlement, without having a white man on the same, the person so offending shall on conviction be fined five dollars for each and every month that such slave may be so kept, to be recovered by any person suing for the same before a justice of the peace.

Keeping slaves on plantation alone.

Sec. 44. Be it further enacted, That a body of men slaves exceeding seven in number, and without having a white person with them shall not travel in high road, and slaves thus found in a body, may be whipped not exceeding twenty stripes each, without reference to the civil authority.

Slaves traveling alone.

Sec. 45. Be it further enacted, That if any slave shall barter, buy, sell or deliver any thing of value, (except brooms, baskets or fabrics of straw or rush) without the leave or consent in writing of his or her master, owner or overseer, such slave shall be punished by the infliction of a number of stripes not exceeding thirty nine, at the discretion of any justice of the peace.

Slaves trading

Sec. 46. Be it further enacted, That if a slave shall go at large without a written pass from his or her owner, master or overseer, or shall fire hunt, or shall keep a horse, a boat or canoe, such slave shall be punished by the infliction of a number of stripes not exceeding thirty nine, at the discretion of any justice of the peace.

Slave firehunting, keeping horse, boat &c.

Sec. 47. Be it further enacted, That if a slave shall use, carry or keep any fire arms, ammunition or any weapon, except by special license from his master, owner

Carrying fire arms, ammunition &c.

or overseer for the purpose of killing game birds or beasts of prey or for any other necessary and lawful purpose, and such license shall be received weekly, such slave shall be furnished by the infliction of a number of stripes not exceeding thirty nine, at the discretion of any justice of the peace.

To be arrested

See. 48. *Be it further enacted*, That from and after the first day of March next, it shall not be lawful for any free negro or mulatto to migrate or be brought into this Territory from any State or Territory within the United States or elsewhere, and if any free negro or mulatto shall migrate or be transported or brought into this Territory and remain herein for the term of thirty days, he or she shall be liable to be arrested, and any citizen of this Territory having knowledge that any such free negro or mulatto is within any county of this Territory contrary to this act, shall or may arrest the said free negro or mulatto and bring him or her before some justice of the peace or mayor of the city, to be dealt with agreeable to law, or he may apply to a justice of the peace or mayor of the city, who, upon information of the same, is required to issue his warrant to cause the said free negro or mulatto to be brought before him or some other justice, to be dealt with agreeably to law, directed to the sheriff or constable, or such other person as he may choose to designate, whose duty it shall be to execute the said warrant.

To enter into recognizance.

See. 49. *Be it further enacted*, That if the justice of the peace or mayor of the city, before whom any free negro or mulatto shall be brought as aforesaid, upon examination of the said free negro or mulatto, or other testimony shall be of opinion that the said free negro or mulatto has migrated or been transported or brought into this Territory and continued therein in contravention of this act, it shall be the duty of said mayor or justice to require the said free negro or mulatto to enter into a recognisance, with one or more good securities in the sum of two hundred dollars, payable to the Governor for the time being and his successors, conditioned for the personal appearance of the said free negro or mulatto at the next county court, to be held for his county, and that he or she will abide by and perform the order made therein by the said county court; on failure to give or enter into said recognisance, the said magistrate or mayor shall commit the said free negro or mulatto to jail, there

*Free negroes
migrating into
this territory.*

*Or, be com-
mitted to pris-
on.*

to remain until legally discharged by a court having jurisdiction of the case.

Sec. 50. *Be it further enacted*, That if the county court, before whom any such free negro or mulatto shall be brought as aforesaid, shall after trial, be satisfied that the said free negro or mulatto has migrated or been brought into the Territory and contintinued herein contrary to this act, they shall direct the said free negro or mulatto to enter into a recognisance with one or more good securities, in the sum of five hundred dollars, payable as aforesaid, conditioned that the said free negro or mulatto will depart and remove without the limits of this Territory within ten days from the date, and never more return within the limits of the same, or the court may at their discretion take the bond of the said free negro or mulatto without security for the performance of the conditions as aforesaid, and upon failure or refusal to give such recognisance, the court shall make an order to be executed by the Sheriff or the ministerial officer of the court making such order, for the immediate sale of the said free negro or mulatto, for the term of one year to the highest bidder, and the sheriff shall proceed to sell the said free negro or mulatto at one years credit, taking bond & security for the payment of the same to the Judge of the county court; and in case where the said bond shall not be complied with or either of the recognisance aforesaid be forfeited, suits shall be brought thereon and recoveries had in any of the courts of this Territory having jurisdiction of the same; and of all monies so recovered, one half shall be paid to the person prosecuting, the other half deducting expences of prosecution, into the county treasury.

Sec. 51. *Be it further enacted*, That similar proceeding may be had against any such free negro or mulatto as often as he, she or they shall be found within any connty of this Territory, after the expiration of the time assigned by the court for his or her departure out of this Territory.

Sec. 52. *Be it further enacted*, That the provisions of this act shall not be considered as extending to free negroes or mulattoes who may be actually engaged under any contract of service on board of any ship or vessel, which may be within any of the waters of this Territory, so long as the said free negro or mulatto shall remain in actual employ of, or on board said ship or vessel.

Proceedings
in county
court on trial
of such free
person.

May be sold,
on refusal to
comply with
the order of
the court.

Similar pro-
ceedings may
be had a se-
cond time &c.

Sailors.

Free negroes
in Key West.

Sec. 53. Be it further enacted, That the provisions of this act shall not extend to free negroes and mulattoes migrating or being brought to the Island of Key West, but the controlling power exercised by this act, over all the other parts of this Territory, so far as it goes to prevent the migration of free negroes and mulattoes aforesaid, shall be, and the same is hereby vested in the town council of the town of Key West; Provided however, that any and all such free negroes and mulattoes as may be admitted or suffered to migrate, or be brought to the said Island of Key West, under the provisions of this section, shall not on that account be permitted to migrate or be brought to the main land of this Territory, but they shall be held and deemed to be in all respects, so far as regards the main land of Florida, amenable to, and governed by the provisions of this act.

Slaves consu-
ting the mur-
der of any per-
son.

Sec. 54. Be it further enacted, That if any negro or other slave, shall hereafter consult or advise the murder of any person or persons whatever, every such consulting or advising, shall be punished by any number of stripes not exceeding one hundred, at the discretion of the jury trying the said negro or other slave.

Slave shoot-
ing at white
person.

Sec. 55. Be it further enacted, That if any slave shall wilfully and maliciously shoot at any free white person with a gun or other instrument, with intent to kill such person, or if any slave shall wilfully and maliciously wound any free white person in attempting or endeavouring to kill another person, the slave so offending, his or her aider and abetter being a slave, shall be deemed guilty of felony, and shall therefor suffer death.

Robbery and
burglary.

Sec. 56. Be it further enacted, That any negro or other slave duly convicted of the crimes of robbery from the person, or burglary shall suffer death, or have his or her ears nailed to posts and there stand one hour and receive thirty nine lashes on his or her bare back at the discretion of the court.

Counsel for
defence of
slave on trial.

Sec. 57. Be it further enacted, That it shall be the duty of the courts of this Territory charged with the trial of slaves to assign and appoint counsel to defend any slave tried before them in all cases, where the master of any slave his agent or guardian fails or refuses to employ an attorney to defend such slave, and all such attorneys shall receive for their services from the master, owner or guardian of such slave any sum that the court

Shall deem reasonable, not exceeding fifty dollars, which shall be recoverable as other debts of like magnitude.

Sec. 58. *Be it further enacted*, That whenever it shall be found necessary to examine any slave as a witness on any trial, it shall be the duty of the court or justice sitting on such trial, before such witness shall be examined, to charge him to declare to the truth in the following manner; "you are brought here as a witness, and by the direction of the law, I am to tell you before you give your evidence, that you must tell the truth, and nothing but the truth, and if it be found hereafter that you tell a lie and give false testimony in this matter, you will for so doing receive thirty nine lashes upon your bare back and have your ears nailed to posts, there to stand for one hour."

Charge to neg.
gro witness.

Sec. 59. *Be it further enacted*, That it shall not be lawful for any slave to possess in his or her own right any horse, mare, gelding, mule or any cattle or sheep whatever, and if any slave shall be so possessed of such property, the same shall be forfeited and may be sold by order of any justice of the peace, and one half of the proceeds after deducting costs and charges paid into the county Treasury, and the other half shall be paid to the person prosecuting.

Slave shall not
own horse,
mare, or cat-
tle.

Sec. 60. *Be it further enacted*, That in the trial of any slave in the Superior court, the same rules and regulations shall be observed as are now observed in the trial of free persons.

Trial of slave

Sec. 61. *Be it further enacted*, That if any negro or mulatto, bond or free, shall commit any other crimes or misdemeanors against the laws of this Territory, it shall be lawful for the jury convicting him of the same to punish him by such number of stripes as they may award, not exceeding one hundred.

Other offend-
ces.

Sec. 62. *Be it further enacted*, That in all cases when conviction of a slave shall ensue, indicted under the provisions of this act, the master or overseer of such slave shall not be liable for any costs or charges except as herein before provided for; and in all capital cases, the owner of any slave who may be executed shall be entitled to such valuation as the jury trying him or her shall affix, to be paid him by the Territorial Treasurer upon a certificate of the valuation so affixed, signed by the judge and countersigned by the clerk, out of any moneys in the Treasury not otherwise appropriated by law.

Owner not
liable for cos-

Compensatio-
n in capital ca-
ses.

Negros &c.
supplying pris-
oners with li-
quor.

Sec. 63. Be it further enacted, That if any negro or person of color bond or free shall without the consent of the marshal of the district, the sheriff of the county or the keeper of the jail furnish or supply any prisoner or prisoners with any intoxicating liquor, he or she shall be whipped not exceeding twenty stripes at the discretion of any magistrate before whom complaint and proof of the offence shall be made.

Passed 17th, November 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved, November 21st 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Concerning arbitration and awards.

Controversies
may be sub-
mitted to arbi-
tration.

May be made
a rule of court.

Manner of do-
ing so.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall and may be lawful for all persons desirous of ending any matter of difference, controversy or quarrel, in which any action at law or in equity will lie, or in which any action or suit has been commenced and is pending, to agree that their said matter of difference, controversy or quarrel shall be adjusted and determined by arbitration, and to appoint one or more arbitrators with an umpire to adjust and determine the same: The matters in difference between the parties shall thereupon be submitted to the said arbitrator or arbitrators by bond, covenant or other agreement in writing; and the parties aforesaid may stipulate and agree either in said bond, covenant or agreement, or by a separate agreement, that the said submission to arbitration shall be made a rule of any court of record, in this Territory.

Sec. 2. Be it further enacted, That when any submission is intended to be made a rule of court as aforesaid, an agreement to that effect in writing, signed by the parties shall be filed in the office of the clerk of the court of which said submission is to be made a rule, and the clerk shall therupon enter said rule.

Sec. 3. Be it further enacted, That no award of any arbitrator or arbitrators duly appointed, made pursuant to the said submission, shall be set aside by the said court, except on the ground of fraud, corruption, gross negligence or misbehaviour of one or more of arbitrators or umpire, or of evident mistake, acknowledged by the arbitrators or umpire, who may have signed the award.

Award, for what causes set aside.

Sec. 4. Be it further enacted, That any party feeling himself aggrieved by any award made a rule of court as aforesaid, and conceiving that he has just ground to set aside said award, may apply to the court for that purpose by motion at the ensuing term of said court, on giving the opposite party or his Attorney ten days previous notice of such intended application, and of the grounds on which the motion will be made, to set aside said award ; and if the award be made during the term of the court, and there be sufficient time before the end of the term to give the said notice of ten days, and the same be given, the motion to set aside the award may be made during that term.

How set aside

Sec. 5. Be it further enacted, That the court in which any motion may be made to set aside any award made as aforesaid, shall require affidavit of the facts constituting the ground on which the motion is made, and shall also, if offered, receive affidavits on the other side, but no parol testimony shall be admitted on either side.

Testimony.

Sec. 6. Be it further enacted, That if no motion be made to set aside any award made as aforesaid, it may be entered of record at the ensuing term of said court during the term thereof, and so much of the said award as decrees the payment of money by either party, it shall have the force and effect of a judgment duly docketed from the day of entering said award, upon which execution may be issued as in cases of judgment duly entered ; and so far as the said award relates to the performance of any other lawful act, the party failing to comply with said award shall be considered in contempt, and by the order of the court shall be committed to prison, these to remain without bail or mainprize until he shall comply with the order of the court in the premises.

Awards, performance of how enforced

Sec. 7. Be it further enacted, That the arbitrator or arbitrators or umpire appointed as aforesaid, shall before entering upon the investigation of the matters submitted to them, be severally sworn or affirmed before

Oath of arbitrators.

Subpoena for witnesses. some Judge or justice of the peace, faithfully and diligently to execute the trust committed to them by the submission ; and the examination of all witnesses before the said arbitrator, arbitrators or umpire shall be under oath or affirmation, and if the parties themselves be examined, such examination shall also be under oath or affirmation, and in the presence of each other ; and the said arbitrators, or either of them shall be, and they are hereby authorised and empowered to issue subpoenas to compel the attendance of witnesses under the same regulations as the clerks of the several courts of this Territory, which said subpoenas shall be served by the Sheriff or any constable of the county, and it shall be obeyed by the witnesses in the same manner as subpoenas issued from any court of record within this Territory.

Guardians and ex'ors may refer to arbitration.

Sec. 8. Be it further enacted, That controversies and suits in which infants are interested may in like manner, when made a rule of court, be submitted to arbitration by consent of their lawful guardian ; and executors and administrators may also submit to arbitration any matter in dispute or controversy in relation to the goods, chattels, debts and credits of their testator or intestate.

Party may also seek relief at law.

Sec. 9. Be it further enacted, That nothing in this act contained shall deprive any party to any submission, not made a rule of court as aforesaid, from seeking relief in the courts of law or equity.

Fees of arbitrators.

Sec. 10. Be it further enacted, That the arbitrators for their services shall be entitled to receive one dollar and fifty cents per day, if demanded, to be paid jointly by the contending parties before entering the award ; the fees of the clerk for entering the rule of court shall be jointly paid by the parties previous to the entering thereof, unless otherwise directed by the award.

Fees of witness.

Sec. 11. Be it further enacted, That witnesses obeying the said subpoena of the arbitrators shall be allowed the same compensation and entitled to the same privileges as if summoned by the clerk of any court of record.

Where justice has jurisdiction.

Sec. 12. Be it further enacted, That in all cases in which magistrates shall have jurisdiction, the parties may submit their difference to arbitration, and the a-

ward shall have the force and effect of a judgment of a justice of the peace.

Passed 29th October, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 17th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To provide for the appointment of Auctioneers and defining their duties.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That their shall be appointed and commissioned by the Governor and Legislative Council of this Territory, in each and every county within this Territory, a suitable number of fit and discreet persons, actually residing within the county for which they shall be appointed, to act as auctioneers at all public sales by auction, except sales under and by virtue of any executions at common law or decree in chancery.

Auctioneers to
be appointed.

Sec. 2. Be it further enacted, That every auctioneer shall before he enters upon the duties of his office, execute bond payable to the Governor with two or more good and sufficient securities, to be approved by the Judge of the county court of the county in which said auctioneer may reside, in such sum as said judge may consider necessary, conditioned to discharge the duties of his said office, which bond shall be recorded in the clerks office of his county, and to pay to the Treasurer of this Territory one per centum upon the gross amount of all sales by auction made by him, or by his order, or in any other manner according to the provisions of this act, and said bond shall not be void on the first recovery, but may be put in suit by motion in any court having competent jurisdiction of the same, against said auctioneer and his securities, from time to time, until the whole of the penalty thereof be collected.

Shall give
bond &c.

Sec. 3. Be it further enacted, That it shall be the du-

Condition
thereof.

Shall keep an account of property sold.

ty of the several auctioneers within this Territory, to keep an exact account of the amount of property by them sold, at what time, and at what place, and for whom, and shall quarterly on the first day of January, May, August and November, transmit to the Treasurer of this Territory, sworn to and certified by some Judge or Magistrate residing within this Territory, to be deposited in the office of the said Treasurer.

Sec. 4. Be it further enacted, That any person or persons, who shall offer any property for sale by public auction contrary to the provisions of this act, shall pay on due conviction thereof, before any court having jurisdiction of the same, a fine for each and every offence not exceeding ten per centum of the amount of such unlawful sale, at the discretion of the court.

Sec. 5. Be it further enacted, That no tax shall be due to the Territory from any auction sale of lands, or other property belonging to any county thereof, or any lands or other property belonging to the Territory; nor shall it be necessary to employ any commissioned auctioneer on any sale thereof, nor on any sale made by any officer under any legal process, or by any executor, administrator or guardian in relation to property sold by them in that capacity.

Passed 15th November, 1828.

THOS. MUNROE, Clerk.

PETER ALBA,
President of the Legislative Council.

Approved, November 20th 1828.

WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

Concerning marks and brands, estrays, stone horses, and asses.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passing of this act, it shall be lawful for all persons residing in this Territory, to record their marks and brands in the office of the clerk of the county court in which such person resides; and if any person shall neglect to

Marks and brands to be recorded.

record the same, then, and in that case, whenever any horses, mules, cattle, hogs or sheep shall or may happen to be in dispute between the party so recording his marks and brands, and any other person not having recorded as aforesaid, both having one and the same marks and brands, and the property being found in the possession of the person complying with the provisions of this act, the party so claiming any such property in dispute as aforesaid, shall not be allowed to take the same out of the hands of the person found in possession, without such claimant can prove by disinterested testimony, such property so in dispute to be his property, such proof, when the value of the property is under fifty dollars, to be made before any justice of the peace of the county where said property may be found, and if above that value, before any court having jurisdiction thereof.

Presumption
in favor of per-
son recording

Sec. 2. Be it further enacted, That when two or more persons shall have the same marks and brands, each of them recorded, in such case, the oldest record shall be evidence of right, so far as to compel the other party by disinterested testimony to prove his property in the manner hereinafter directed.

Oldest record

Sec. 3. Be it further enacted, That it shall be the duty of the clerks upon the application of any person or persons, to record all marks and brands in books to be kept by them for that purpose, and to give certified copies thereof when required by any person or persons, for which they shall receive the sum of twenty-five cents.

Clerks to re-
cord the same.

Sec. 4. Be it further enacted, That it shall be lawful for any person, by himself or his agent or overseer, to take up an estray on his own land, or lands of which he is in possession, and having taken it, he or his agent or overseer shall within six days give information thereof to some neighbouring justice of the peace of the county, in which such estray was taken up, who shall issue his warrant to three disinterested persons of the neighbourhood, commanding them, having been first duly sworn, to appraise such estray and certify the valuation under their hands, together with a particular description of the kind, marks, stature, brands, colour and age of the estray, which certificate shall by the justice be transmitted to the clerk of the county court within twenty days, and by such clerk, shall be entered in a book to be kept for that purpose, for which he may demand and take twenty five cents, to be paid by the taker up of the estray.

Fee.

Estrays may
be taken up.

How disposed
of.

Publication of
justice's certif-
icate.

Sec. 5. Be it further enacted, That the person taking up such estray, shall cause a copy of every such certificate to be publicly affixed to the door of the court house, if there be one, and to the door of the house where the justice of his district shall hold his court or monthly session, for and during the space of three months next after the estray shall have been appraised, and shall also cause to be publicly advertised in at least one of the most public places in the county.

Estrays how
& when to be
sold.

Sec. 6. Be it further enacted, That if the valuation shall be under four dollars, and no owner shall appear until six months have elapsed from the time of the advertising, then and in that case, the property shall be vested in the owner or possessor of the land on which such estray was taken up; and if the valuation shall exceed that sum, the person taking up such estray shall within three months after the appraisement, cause such certificate to be published in any news paper that may be published in the county where such estray was taken up, and copies and certificates to be affixed at not less than two public places, near to the place where such estray was taken up, for and during the space of two months, and if no news paper be printed in the county or judicial district, copies of the certificate shall be affixed by the person taking up the estray, in not less than three different public places in the county, and at two several times distant from each other nor less than four months, and if no owner appear and claim such estray within one year after the first publication, the property shall be thenceforth vested in the owner of the land or possessor of the land whereon it was taken; but the former owner in either case may at any time afterwards, upon proving his property, demand and recover the valuation money thereof, deducting therefrom the clerks, printers and justices fees; if the owner of such property shall claim and prove his or her right to the property, before it shall be vested according to the provisions of this act, in the person taking up the estray, then and in that case, the owners shall recover his property paying the printers, justices and clerks fees, and all reasonable expenses for keeping and supporting such estray, such expenses to be determined by two house keepers of the neighbourhood, to be sworn and appointed by a justice of the peace of the county in which such estray may be taken up.

If the owner
should appear
and claim.

Sec. 7. Be it further enacted, That if any person or

persons shall vexatiously or maliciously take up as an estray, any horse, mule, cattle, sheep or swine, contrary to the true intent and meaning of this act, then and in that case, such person or persons shall be liable to an action for damages to the party injured, and shall be fined not more than ten dollars at the discretion of the justice.

Maliciously taking up cattle as estrays.

Sec. 8. *Be it further enacted*, That if any person shall take up a boat or other vessel adrift, he shall in like manner make application to some justice of the peace near to the place where such boat or vessel was taken up, for his warrant to have the same valued and described by her kind, burthen and built, and shall proceed in all other respects and have the same benefits as before directed in the case of estrays.

Boats found a-drift.

Sec. 9. *Be it further enacted*, That cattle of all kinds, hogs, sheep and goats, wandering about the neighbourhood for six months, and stone horses, geldings, mares, fillys, colts, asses and mules, for three months, shall be considered estrays.

What shall be considered as estrays.

Sec. 10. *Be it further enacted*, That provided always, that if after notice published as aforesaid, any estray shall happen to die, or by any casualty get out of the possession of the person who took up the same, without his or her default, such taker up shall not be answerable for the same, or the valuation thereof; nor shall any taker up be answerable for any boat or other vessel lost as aforesaid.

Taker up not liable for escape of estray &c.

Sec. 11. *Be it further enacted*, That from and after the passage of this act it shall not be lawful for any stone horse or ass to run at large within the Territory of Florida, and if any stone horse or ass shall be found running at large, it shall and may be lawful for any person to take up the same, and having taken him before the next justice of the peace for the county, by the permission of said justice, may geld the said stone horse or ass, taking care that the operation be performed by a person usually doing such business, for which the person so gelding shall receive five dollars, to be paid by the owner of the horse, to be recovered by summary proceeding before a justice of the peace; Provided nevertheless, that if any person shall take up and geld any such stone horse or ass, contrary to the true meaning and intent of this act, or without fully pursuing the aforementioned directions he shall for every such offence, forfeit to the party injured double the value of such horse or ass, which value shall be as-

Stone horses and asses running at large.

May be gelded

Proviso.

Penalty for not pursuing the provision of this act.

certained by two respectable freeholders, who were acquainted with such horse or ass, and who shall act upon oath, to be recovered before any court of competent jurisdiction.

Or be considered as other estrays.

Proviso.

Sec. 12. Be it further enacted, That any person who shall take up any stone horse or ass, and may not choose to geld him, may take him before any justice of the peace for the county, and shall cause the said horse or ass with his brands and marks if he has any, and if not, with a description of him, to be advertised in not less than three of the most public places of the county, and the person taking up said horse or ass shall recover from the owner thereof before any justice of the peace, the sum of five dollars and all reasonable expenses of keeping such horse or ass: Provided, that if such stone horse or ass or gelding, shall not be claimed by any person within ten days, the person taking up such stone horse, ass or gelding shall proceed as in other cases of estrays provided for by this act, but in no case, shall he forfeit or lose the sum of five dollars and all reasonable expenses allowed him by this act.

Passed 18th November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.



AN ACT

To authorise the issuing of Treasury warrants, and for other purposes.

Warrants to be issued by treasurer.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the Treasurer of the Territory to cause to be struck on good silk paper, the amount of ten thousand dollars in notes or warrants, from twelve and a half cents to five dollars, to bear interest at the rate of six per cent per annum each of which notes or warrants shall be signed by the Treasurer and issued by him in payment of all audited accounts against the Territory.

Sec. 2. *Be it further enacted,* That all such notes or warrants which may be issued by said Treasurer, shall be received by any officer of this Territory who may be charged with the collection of monies due or owing to said Territory in payment or discharge of the same, and said Treasury notes or warrants shall at all times be received in payment of debts or demands which are now due, or may at any time hereafter be owing to said Territory.

To be received
in payment of
debts due the
Territory.

Sec. 3. *Be it further enacted,* That the Treasurer of the Territory shall cause the lands lately acquired from Mr. Dorothy Walton to be surveyed and laid off into lots of forty acres each; that as soon thereafter as may be convenient, the said lots shall be sold by public auction. The Treasury warrants authorised by this act shall be received in payment of the purchase of said lots either in part or in whole; The lots shall be sold at credits of six, twelve and eighteen months, and deeds to be drawn and recorded at the purchaser's expence, shall be required to secure the payment of the purchase money; the Treasurer shall allow to purchasers a discount at the rate of six per cent per annum who may wish to make payment on the same before they are actually due, the day and terms of sale shall be published for three weeks successively in one of the news-papers printed in each of the cities of Pensacola, Tallahassee and St. Augustine.

Lands acquir-
ed from Mrs.
Walton, to be
disposed of.

Terms of sale.

Sec. 4. *Be it further enacted,* That it shall be the duty of the Treasurer to pay all necessary expenses incurred in carrying the provisions of this act into effect out of any money that may be in the Territorial Treasury, and said Treasurer shall be entitled to receive two and a half per cent on all monies received, and two and a half per cent in all monies paid away in pursuance of the duties required by this act.

Expenses in-
curred by the
Treasurer in
pursuance of
this act.

Passed 19th November 1828.

PETER ALBA.

President of the Legislative Council

THOS. MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To authorise the appointment of Measurers and Inspectors of Lumber, and for other purposes.

Measurers and
inspectors of
lumber to be
appointed.

Sec. 1. Be it enacted by the Governor and Legislative Council of the Territory of Florida, That it shall be the duty of the Governor, upon the recommendation of a member of the Legislative Council, to appoint for the county which said member may represent, two inspectors and measurers of lumber, to measure and ascertain the quantity of all lumber which may be cut in said county and intended for exportation from the Territory: Provided, that when any county shall have two representatives they shall concur in the recommendation aforesaid.

Their duty &c

Sec. 2. Be it further enacted, That when any person or persons, shall desire the attendance and services of either, or any of said measurers and inspectors of lumber, he or they shall give notice and inform all parties concerned and interested, of his intention of calling in the aid of such measurer and inspector at least three days previous to the time when he shall require said measurer and inspector to inspect and measure the lumber in question; and it shall be the duty of the measurer and Inspector, when summoned, to attend at the place and the day to which he may be called, and then are faithfully to measure all lumber he may be required to do, and any report and return he may make concerning thereof, shall be received as the correct admeasurement of the same: Provided nevertheless, that the several parties interested, may, at all times, beat liberty to establish the incorrectness of such return and report, in any suit regularly commenced in any court of this Territory having jurisdiction of the same.

Their fees.

Sec. 3. Be it further enacted, That the said measurers and inspectors shall receive the following fees for their services; to wit, two dollars for every twenty miles they may travel in going to, and from the place at which they may be required to attend, and fifty cents for every thousand superficial feet of ranging lumber, and one dollar for every hundred cubical feet of live oak or cedar lumber, and seventy five cents for every thousand staves they may inspect and count, which said fees may be recovered in any court having jurisdiction thereof, of the several parties interested in the measuring and in-

Their report
and return.

specting the lumber, measured and inspected, who are hereby made jointly and severally liable therefor: Provided, that in all cases the measurer shall have a lien on the lumber by him measured for the full amount of his fees, till the same are paid, which lien shall commence immediately after the performance of said services.

Lien for fees

Sec. 4. Be it further enacted, That if any person or persons shall transport from any county in this Territory, any lumber or staves, without complying with the provisions of this act, after he, she or they been notified by any person interested in said lumber, of their wish and intention, to have the same so measured, he she or they so offending, shall forfeit to the Territory a sum not exceeding two hundred dollars.

Violations of
the provision of
this act.

Sec. 5. Be it further enacted, That all measurers and inspectors appointed by virtue of this act, shall before they enter on the duties of their office, take an oath, faithfully to discharge the same, and they shall hold their offices during the pleasure of the Governor.

How punished

Passed 20th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Oath of inspec-
tors and mea-
surers.

AN ACT

To provide for the collections of rents.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, it shall and may be lawful for any person, his or her agent, attorney or legal representative who may hereafter have rent due, when the sum does not exceed fifty dollars, to make application to any justice of the peace of the county where his, her or their tenant may reside, and on making affidavit before said justice of the amount of rent due from said tenant, it shall be the duty of the said justice to issue a distress warrant for the amount claimed to be due, directed to any constable of said county; and it shall be the duty of the constable

Distress war-
rant where the
sum does not
exceed \$50.

Replevin.

to whom the same may be directed, and he is hereby required to levy on any property belonging to the said tenant; Provided nevertheless, that the party distrained shall be entitled to replevy the property so taken, by making oath that the sum or any part thereof distrained for is not due, and give bond and security for the amount which on trial may be proven to be due; and in that case, it shall be the duty of the officer to return the warrant to the justice of the peace with the proceedings thereon, and it shall be the duty of said justice to cause the said parties to appear before him at some certain time, and the matter in controversy shall be tried and determined, and execution shall issue as in other cases.

Duty of constable.

Execution.

Sale of property levied on.

Claims.

Tenant holding over.

Entry, upon non payment of rent.

Interest.

Action for use and occupation.

Sec. 2. Be it further enacted, That in all civil cases of distress as aforesaid, where the party distrained on does not within ten days after levying the distress warrant, replevy the property as aforesaid, the officer making the distress shall advertise and sell the property levied on as in cases of execution.

Sec. 3. Be it further enacted, That when property distrained may be claimed by a third person, the same shall be claimed on oath, and the right of property shall be determined by a jury as is provided in like cases.

Sec. 4. Be it further enacted, That where any tenant shall refuse to give possession of the premises at the end of his lease, it shall be lawful for the person, his or her agent, attorney or legal representative leasing the same, to demand of such tenant double the monthly rent, and may recover the same at the expiration of every month, or in the same proportion for a longer or shorter time by distress in manner pointed out as aforesaid.

Sec. 5. Be it further enacted, That if any person leasing or renting any land or house, shall fail to pay the rent at the time it becomes due, it shall and may be lawful for the lessor immediately thereafter to enter and take possession of the property so by him rented or leased.

Sec. 6. Be it further enacted, That all contracts for rent, whether verbal or in writing, shall bear interest from the time the same shall become due, any law, usage or custom to the contrary notwithstanding.

Sec. 7. Be it further enacted, That it shall and may be lawful for any landlord or landlords, his, her or their heirs, executors, administrators or assigns to recover reasonable satisfaction for any house or houses, lands, tenements or hereditaments, held or occupied by any

person or persons, by his or their permission, in an action on the case for the use and occupation of the said lands, tenements or hereditaments, when they were not held, occupied by or under an agreement or demise by deed; and if on the trial of any such action, any parol demise or agreement (not being by deed,) whereby a certain rent was reserved, shall appear or be given in evidence, the plaintiff in such action shall not therefore be nonsuited, but may make use thereof as an evidence of the quantum of damages to be recovered.

Parol demise.

Passed 20th, November 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To Provide for the Condensation of the Laws.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Acts and parts of Acts herein after mentioned and described shall continue and be in force in this Territory : (to wit,)

Acts to be in force.

An act to regulate descents, approved 12th August eighteen hundred and twenty two.

An act regulating damages on Bills of Exchange, approved twelfth August, eighteen hundred and twenty two.

An act concerning Notaries Public, approved thirteenth September, eighteen hundred and twenty two.

An act concerning usury and regulating the rate of interest, approved 31st August, eighteen hundred and twenty two.

An act to provide for the appointment of Surveyors, approved thirteenth September, eighteen hundred and twenty two.

An act providing for the payment of postage paid on communications directed to the Governor and Secretary of the Territory of Florida, approved September thirteenth, eighteen hundred and twenty two.

An act authorising the appointment of Coroners, approved September thirteenth, eighteen hundred and twenty two.

An act concerning roads, highways and ferries, approved September thirteenth, eighteen hundred and twenty two.

An act concerning improvements made on public lands, approved September sixteenth, eighteen hundred and twenty two.

An act providing for the appointment of pilots, approved September sixteenth, eighteen hundred and twenty two.

An act directing the mode of suing out and prosecuting writs of habeas corpus, approved September sixteenth, eighteen hundred and twenty two.

An act concerning Seamen in Merchants service, approved September eighteenth, eighteen hundred and twenty two.

An act regulating fences in the Territory of Florida, approved June the eleventh, eighteen hundred and twenty three.

An act for the removal and prosecution of proceedings at law and in equity, begun and remaining unfinished in any of the former courts of this Territory, approved June the eleventh, eighteen hundred and twenty three.

An act to legalize certain conveyances of property in the Territory of Florida, approved June the twenty fourth eighteen hundred and twenty three.

An act to incorporate Floridian Virtues Lodge No. 28, in the city of St. Augustine, approved July second, eighteen hundred and twenty three.

An act for preventing and avoiding fraudulent conveyances, approved June twenty eighth, eighteen hundred and twenty three.

An act to regulate the driving or bringing into the Territory of Florida, neat cattle belonging to persons citizens of the several States, approved June twenty ninth, eighteen hundred and twenty three.

An act authorising the Governor during the recess of the Legislative Council, to make certain appointments, approved June twenty ninth, eighteen hundred and twenty three.

An act to incorporate the Protestant Episcopal congregation of the city of St. Augustine, approved July the second, eighteen hundred and twenty three.

An act to provide for the support and maintenance of bastard children, approved January fifth, eighteen hundred and twenty eight.

An act to prevent the circulation of private, in the likeness of, bank bills, approved December twenty second, eighteen hundred and twenty four.

An act to incorporate the city of St. Augustine, approved December twenty eighth, eighteen hundred and twenty four.

An act to amend an act, entitled an act to incorporate the city of St. Augustine, passed January twentieth, eighteen hundred and twenty seven.

An act to amend an act in addition to an act, entitled an act to incorporate the city of St. Augustine, approved December twenty ninth, eighteen hundred and twenty seven.

An act to incorporate the city of Pensacola and improve the public roads in the neighbourhood thereof, approved December fifth, eighteen hundred and twenty five, excepting the fifteenth section thereof.

An act to amend the act entitled an act to incorporate the city of Pensacola, passed January the twentieth, eighteen hundred and twenty seven.

An act to incorporate the city of Fernandina, approved January the first, eighteen hundred and twenty five.

An act to provide for the laying off the Town of Tallahassee and the sale of lots therein, approved December the eleventh, eighteen hundred and twenty four.

An act to incorporate the city of Tallahassee, approved January the eighteenth, eighteen hundred and twenty seven.

An act to prevent Indians from roaming at large through the Territory, approved January twentieth, eighteen hundred and twenty seven.

An act to amend an act entitled an act to provide for the laying off the town of Tallahassee, and the sale of the lots therein, approved January twenty first, eighteen hundred and twenty seven.

An act to provide for laying off the north east quarter of section thirty six, township one, range one, north and west and for other purposes, approved December twenty second, eighteen hundred and twenty seven.

An act to amend an act to incorporate the city of Tallahassee, approved December the twenty ninth, eighteen hundred and twenty seven.

An act supplementary to an act to provide for laying off the north east quarter section thirty six, township one range one, north and west, and for other purposes, approved January 16th, 1828.

An act to incorporate a board of Trustees for St. Marks, approved January 12th, 1827.

An act to constitute trustees for West Point, bay of Appalachacola, approved December 29th, 1827.

An act to incorporate the Presbyterian Congregation of the city of St. Augustine, approved Decembber 3d, 1824.

An act to incorporate the Roman Catholic congregation of the city of Pensacola, approved December 17th, 1824.

An act to incorporate the Roman Catholic congregation of St. Augustine, approved December the 30th, 1824.

An act to incorporate the charitable society of St. Augustine, approved 17th December 1824.

An act to incorporate Jackson Lodge of Tallahassee in the city of Tallahassee, approved December 8th, 1825.

An act to incorporate the Webbville academy, approved 22d December, 1827.

An act to incorporate a company to be called the Chipola canal company, with power to construct a canal or rail way between the Chipola river and the eastern arm of the Bay of St. Andrews, approved 16th January, 1828.

An act establishing a ferry across the bay of Pensacola, approved 1st January, 1825.

An act to amend an act to establish a ferry across the bay of Pensacola, approved 3d December, 1825.

An act to establish a ferry across the Ocilla river, approved 9th December, 1825.

An act to establish a ferry across the Ocklocnee river, approved 9th December, 1825.

An act to incorporate a wharf company in the city of Pensacola, approved January 18th, 1828.

An act to amend an act, entitled an act for regulating fences in the Territory of Florida, approved 13th Dec. 1824.

An act to authorise the city council of the cities of St. Augustine and Pensacola to make all laws regulating the construction or repairing of partition fences within the

limits of their respective cities, approved January 9th, 1828.

An act making further provisions for the establishment of ferries and bridges, approved January 18th, 1827.

An act in addition to an act, entitled an act concerning roads, highways and ferries, approved January 18th, 1827.

An act to exempt certain persons from paying tolls at the ferries and bridges of this Territory, approved January 18th, 1827.

An act to amend an act, entitled an act concerning roads, highways and ferries, approved September 15th, 1822, approved January 18th, 1828.

An act establishing a ferry over the river Suwannee, approved 28th December, 1824.

An act to establish a ferry over the river Ocklocknee, approved 27th December, 1824.

An act establishing a ferry over the river St. Johns at Jacksonville, approved 29th December, 1824.

An act to establish a ferry over the river Ocklocknee, approved December 10th, 1825. Drury Vickers.

An act to establish certain ferries in the counties of Walton, Washington and Gadsden, approved Jan. 18th, 1827.

An act to establish a ferry across the Appalachacola river, at or near the town of Aspalaga, approved Dec. 22d, 1827.

An act to establish a ferry over the river Appalachicola, approved December 28th, 1827.

An act to establish Cotton's ferry over the Escambia river, approved January 10th, 1828.

An act to authorise Sherrod McCall to erect a toll gate at or near his house, in Gadsden county, approved January 14th, 1828.

An act to authorise the county court of Escambia to grant a right of receiving toll at the bridge on Pine barren creek, approved January 16th, 1828.

An act regulating the toll to be received at the several ferries on the Ocklocknee river, approved January 16th, 1828.

An act giving Nathan Shackelford and Emile Merlet the exclusive navigation and portage of Holmes creek, passed January 21st, 1827.

An act to preserve the validity of certain writs and

proceedings in the courts of this Territory, approved January 1st, 1825.

An act to provide for the division of property held by two or more persons jointly, approved January 10th, 1828.

An act to secure the rights to property of husband and wife, derived previous to the session of the provinces of Florida to the United States, approved December 23d, 1824.

An act giving a lien to mechanics in certain cases, approved January 20th, 1827.

An act to govern patrols, approved December 8th, 1825.

An act for the relief of fire companies Nos. 1 and 2 in the city of Pensacola, passed January 21st, 1827.

An act relative to the erection of mills and mill dams and prescribing the duty of millers, approved December 22d, 1827.

An act to regulate the foreclosure of mortgages by the courts of common law of this Territory, and for other purposes, approved December 11th, 1824.

An act to continue in office certain officers in this Territory, approved December 29th, 1824.

An act to establish the rates of pilotage for the St. Johns river in the Territory of Florida, approved January 20th, 1827.

An act to constitute the office of Territorial Treasurer, approved December 23d, 1826.

An act for the transferring certain debts of the several counties to the Territory, approved Jan. 20th, 1827.

An act authorising the Territorial Treasurer to institute actions against all persons indebted to the Territory, approved January 20th, 1827.

An act to provide in part, for the disbursement of public money of this Territory, approved Jan. 19th, 1828.

An act to amend and in addition to the several acts concerning executions now in force, passed January 20th, 1827.

Sec. 2. Be it further enacted, That all the acts of the Governor and Legislative council of this Territory, other than those of a private nature, approved or passed previous to the present session of the Legislative Council, and which are not herein before mentioned and described, be and the same are hereby repealed.

See 3. Be it further enacted, That all crimes, mis-

Demeanders and offences of any and every description whatsoever, committed during the existence of any law by this act repealed, shall be prosecuted and punished in the manner prescribed by, and according to the provisions of such law; and that all writs, summons, precepts, suits, actions, plaints, demands, bills, informations, indictments and presentments which have been sued out of, made or brought to; exhibited, filed or instituted in any of the courts of this Territory, and all returns, pleas, answers, demurrer, replication and rejoinders which may have been made to, filed in or returned to said courts, and all and every other proceeding whatsoever that may or shall have been commenced under the laws of this Territory by this act repealed, shall be proceeded in, and prosecuted to effect under said laws, in the same manner as if this act had not been passed.

Sec. 4. Be it further enacted, That all the acts of the Governor and Legislative Council of the Territory of Florida, not of a local or private nature, approved or passed at this present session, shall go into operation and take effect from and after the first day of January next, unless by any of such acts it shall be otherwise specially provided.

Passed 23d November, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 23d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Saving as to
offences com-
mitted, and
proceeding
had under
former laws

Acts of the
present Coun-
cil, when
to take effect.

AN ACT

To provide for the holding terms of the Superior Courts for the Counties therein mentioned.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Judge of the Superior court for the Western district of Florida, shall hold a court on the first Monday of March and September in each year, in the county of Jackson, at the Court-house in the town of Marianna in said county; and the said Judge shall be and hereby is authorised to appoint, or

Superior court
of Jackson.

Judge shall ap-
point clerk.

His bond.

clerk of said court who shall keep his office at Marianne aforesaid, and shall give bond in the sum of two thousand dollars with security to be approved by the Judge, conditioned for the faithful performance of the duties of his office.

*Jurisdiction of
said court*

Soc. 2. *Be it further enacted*, That the said Superior court while sitting in Jackson county shall have and exercise jurisdiction over all offences against the criminal and penal laws of this Territory, committed within the counties of Jackson and Washington, as well as over all civil suits or actions arising within the said counties or either of them, and shall also have and exercise appellate jurisdiction over the judgments and decisions of the county courts of said counties respectively.

*Duval super-
rior court.*

Terms.

Jurisdiction.

Ses. 3. *Be it further enacted*, That the Judge of the Superior court of the eastern district shall hold a court on the first Mondays of April and December, at Jacksonville, the county seat of Duval county; That the said courts shall have and exercise jurisdiction over all offences against criminal and penal laws of this Territory, committed within the counties of Duval and Nassau, as well as over all civil suits or actions arising within the said counties or either of them; and shall also have and exercise appellate jurisdiction over the judgements and decisions of the county courts of said counties respectively.

*Glerk to be
appointed.*

Sec. 4. *Be it further enacted*, That the said Judge of the eastern district shall have power to appoint a clerk for said court, who shall keep his office at Jacksonville, and the said clerk shall before entering on the duties of his office give bond in the penalty of two thousand dollars with security, to be approved of by the Judge of said court, conditioned for the faithful performance of the duties of his office.

*Bond and con-
dition.*

*Venire, how
served.*

Sec. 5. *Be it further enacted*, That all writs of *venire* issuing from said Superior court for the counties of Duval and Nassau shall be served upon the inhabitants of each in the following proportion; viz. two thirds from Duval county, and one third from the county of Nassau.

*Jurisdiction of
superior court
of St. Johns,
over the courts
of mosquito.*

Sec. 6. *Be it further enacted*, That the said Superior court for the eastern district shall, while sitting at St. Augustine, have and exercise jurisdiction over all offences against the criminal and penal laws of this Territory which may have been committed in the county of Mosquito; and the said court shall also, until the county

court shall have been established and organised in said county, have and exercise original jurisdiction over all suits and actions arising within the said county and for these purposes the clerk of the said court shall have power to issue writs and process, which may run into said county, and the executive officer of said court shall have power to execute and serve said process as well in the said county as in the county of St. Johns; and the said Superior court setting at St. Augustine as aforesaid, shall at all times have and exercise appellate jurisdiction over the judgments and decisions of the county court of said county of Musquito.

Sec. 7. Be it further enacted, That the Judge of the Superior court for the eastern district, shall hold a court on the fourth Monday of December in each and every year, in the county of Alachua, at the place established for holding the county courts of said county.

Superior court
of alachua.

Sec. 8. Be it further enacted, That the Judge of the Superior court for the middle district, shall hold a court on the first Monday of May and November in every year in the county of Gadsden, at the county seat of said county, and in the county of Jefferson on the fourth Monday of May and November at the county seat of said county; that the said court while sitting in Jefferson county, shall have and exercise jurisdiction over all offences against the criminal and penal laws of this Territory committed within the counties of Jefferson, Hamilton and Madison, as well as over all civil suits or actions arising within the said counties or either of them, and shall also have and exercise appellate jurisdiction over the judgments and decisions of the county court of said counties respectively.

Superior of
gadsden.

Of Jefferson.

Jurisdiction.

Sec. 9. Be it further enacted, That the Judge of the Superior court for the eastern district shall have power to appoint a clerk of said court, who shall keep his office at the county seat of Alachua county or as near as practicable thereto; and the Judge of the Superior court of the middle district shall have power to appoint a clerk for said court, in each of the counties of Gadsden and Jefferson, who shall keep their offices at the respective county seats of said counties, and the said clerks shall before they enter on the duties of their office, respectively give bond in the penalty of two thousand dollars with security to be approved by the respective Judges of

Clerk of Alachua superior court.

Clerks of su-
perior courts of
Gadsden and
jefferson.

Bonds.

said courts, conditioned for the faithful performance of the duties of their office.

District attorneys.

One judge may officiate in the district of another.

causes to be tried in the county where defendants resides.

Causes to be transferred.

Sec. 10. *Be it further enacted*, That the district attorneys of this Territory shall by themselves or their deputies attend in all cases upon the Superior courts wheresoever they may be appointed to sit.

Sec. 11. *Be it further enacted*, That in case of the death, resignation or absence from the Territory of a Judge of either of the Superior courts of this Territory, either of the other Judges of the Superior court may serve and act in his stead.

Sec. 12. *Be it further enacted*, That all causes shall be tried in the county where the defendant may reside; provided said defendant be a resident of the Territory, and provided there be a court in such county with jurisdiction of the case, and if there be no such court, then said cause shall be tried in the next adjoining county where a court of competent jurisdiction may be held.

Sec. 13. *Be it further enacted*, That where suits are depending in any Superior court of this Territory against persons residing in another county in the same district, in which a Superior court shall be held, it shall be the duty of the clerks of the courts in which said suits are depending, to transfer the same and the papers and documents thereto belonging and on file in his office, to the clerk of the Superior court of the county in which the defendant or defendants reside; and the clerk of the court to which said suits are transferred shall place them upon the trial docket of his court in their proper order for trial.

Passed 15th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 17th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To establish County Courts and prescribing their jurisdiction.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That their shall be organi-

zed in each of the counties of this Territory a county court, to be composed of one Judge, who shall be appointed by the Governor and Legislative Council and hold his office during good behaviour, subject however to be removed from office at any time by the Governor and a majority of the Legislative Council. The Judges of the county Courts, respectively, shall possess and exercise all powers, and perform all the duties of Justices of the Peace, within the limits of their several counties. They shall, before entering upon the duties of their office, take an oath to support the constitution of the United States and faithfully to execute the duties assigned them, without partiality, favor or affection.

County court
to be organized
Judge thereof.

Term of office.

Powers.

Oath of office.

To be courts of record.

Jurisdiction.

Certiorari
mandamus &c

Appeal to the
superior court

Criminal jurisdiction.

Sec. 3. Be it further enacted, That all appeals from the said county courts shall be taken to the Superior courts of the district of which the said county is a part, and writs of error, *certiorari*, prohibition and injunction shall lie from the Superior to the County courts, which shall be obeyed by the county courts respectively.

Sec. 4. Be it further enacted, That the said courts shall have no criminal jurisdiction, except in cases where the judge of the Superior court shall be the party accused, or the said Superior court for any other cause cannot take cognizance, then and in that case, it shall be the duty of the prosecuting attorney to give twenty days notice before the term to the judge of the county court, and the said judge shall cause a *venire facias* to be issued and a grand jury organized for that special purpose, and the decision of the said county court in all such cases shall be final; Provided, that whenever any suit shall be instituted in the said county courts, in which the judge of the Superior court shall be a party plaintiff or defendant, and he shall desire to appeal from the judgment of the said county court, the said appeal shall be taken to the

Appeal &c
when judge o
superior court
is a party.

court of appeals of this Territory, or writs of error may issue from the court of appeals to the said county courts in the same manner that appeals are taken from or writs of error issued to the Superior courts of this Territory.

Sec. 5. Be it further enacted, That the said county court shall and may take cognizance of all matters relating to the opening and keeping in repair of roads within their respective counties, appointing overseers and surveyors of said roads, establishing ferries, and erecting and keeping in repair, bridges and causeways, and granting writs of *ad quod damnum* for the erecting of mills and other water works, for establishing and regulating Patrois when necessary, and for the maintenance and support of the poor and infirm of their counties.

Sec. 6. Be it further enacted, That it shall be the duty of the several magistrates within their respective counties, under the penalty of ten dollars each for non-attendance, to be recovered in the name of the county before any justice of the peace, to be sued for by the sheriff, to meet at each term of the county courts for the purpose of transacting county business, two of whom shall in conjunction with the judge of the county court form a qorum: Provided, that the county business shall be commenced after the civil business of said county shall be disposed of; Provided also, that if the said judge of the county court shall not attend at any regular term of his court, that the justices shall proceed without him, if there be three present, to do county business.

Sec. 7. Be it further enacted, That the county courts respectively within this Territory shall have the power to sue for and prohibit from trespass any lands that may belong to said counties respectively by any agent appointed for that purpose, and shall sell and dispose of the same in such manner, as said courts may deem best for the use of their respective counties.

Sec. 8. Be it further enacted, That upon all cases of appeal or of probate of any will or granting letters of administration upon intestate estates, or upon original causes brought in the county court, the party applying to the court shall pay to the judges of the county court, four dollars for his fee in such cause, at or before any decision thereon shall be rendered, which said sum, in case of recovery and execution, shall be taxed as part of the costs, or in case of probate of any will, on granting letters of administration shall be allowed to any executor or ad-

Powers of
county courts as
to roads, fer-
ries &c.

Writs of *ad*
quod damnum.

Court for trans-
acting county
business.

Protection of
county lands.

Fee to the
judge.

ministrator paying the same, in his settlement of said trust.

Sec. 9. Be it further enacted, That the judge of each county court shall have power within the county either in open court or in vacation to take the probate of wills, grant and repeal letters testamentary, and letters of administration, appoint and displace guardians of infants and idiots, lunatics and persons non compositamentis, and to make all necessary orders for the issuing of process.

Sec. 10. Be it further enacted, That the judge of the county court be and he is hereby authorised, on petition being made, to order notice to be given for appearances at the next term of the court, in all cases where notices may be necessary; and also to appoint during vacation guardians to orphans, which appointments shall be subject to approval or disapproval of the court at the next term.

Sec. 11. Be it further enacted, That the office of judge of the county court shall not be deemed a disqualification to practice law in the Superior courts, except in cases of appeal or error from the court in which, said judge shall preside to the Superior court; and appeals and writs of error shall be taken from the County to the Superior court in the same manner and under the same restrictions as are imposed in the cases respectively, when appeals or writs of error are taken from the Superior court to the court of appeals.

Sec. 12. And be it further enacted, That the said courts shall be offices of original record for deeds, mortgages, wills and other instruments required by law to be recorded, within their respective counties.

Sec. 13. Be it further enacted, That said county courts shall have power to tax free people of colour in money or labor, to such an extent as to said county courts may appear a reasonable equivalent for the non payment of other taxes or non performance of other duties imposed by law upon the white inhabitants of this Territory: Provided the amount shall not exceed one dollar.

Sec. 14. Be it further enacted, That the county taxes shall be collected in the same manner and by the same persons as the Territorial taxes are collected.

Sec. 15. Be it further enacted, That the sheriffs and clerks of the several county courts in this Territory shall be entitled to hold their respective offices for the term of

Judge may
grant probate
of wills.
Letters of guard-
ianship &c.

Power of judge
in vacation.

Office of judge
no disqualifica-
tion to practice
law.

Appeals to
superior court,
how taken.

Office of ori-
ginal record.

Tax on free
people of
colour.

Collection of
county taxes.

Clerks and
sheriffs, term
of office.

two years from the date of their commissions, unless sooner removed by legal authority.

Clerk or sheriff guilty of felon.

Sec. 16. *Be it further enacted,* That if any sheriff or clerk of a county court shall be convicted of any felony or other infamous crime, such sheriff or clerk shall be removed from office and his commission from thenceforth to be adjudged null and void.

Appointment of a clerk.

Sec. 17. *Be it further enacted,* That there shall be appointed in each county a well qualified clerk, whose duty it shall be to record all decrees, orders, judgments and other papers required by law, and to preserve all papers appertaining to suits in said courts, and who shall take an oath faithfully to perform the duties which have or may hereafter be assigned him, and execute bond in the penalty of two thousand dollars, with security to be approved by the Judges of the said courts respectively, conditioned for the faithful performance of the duties of his office, which shall be recorded in the office of the clerk of such county and filed in the office of the Secretary of the Territory.

Term of office

Sec. 18. *Be it further enacted,* That the said clerks and sheriffs herinafter mentioned shall hold their offices during the period of two years, subject however to be removed by the Governor.

Contempts.

Sec. 19. *Be it further enacted,* That the county courts shall have power to fine and imprison for contempt of their authority; provided, the fine does not exceed twenty dollars or the imprisonment twelve hours.

Appointment of sheriff.

Sec. 20. *Be it further enacted,* That there shall be appointed a Sheriff for each county, who shall perform all the duties required of him by law; and before entering on the duties of his office shall take an oath, faithfully to discharge the duties required of him by law, and execute bond in the penalty of two thousand dollars, with security to be approved by the respective Judges of the said county courts, conditioned for the performance of the duties of his office, which said bond shall be recorded in the office of the clerk of such court, and filed in the office of the Secretary of the Territory; said bond shall not be void upon payment, but remain in full force, and the sheriff and his securities shall be liable to all persons injured by his failure in, neglect of, or non-performance of his duties.

Oath.

Bond.

Condition.

Not to be void on payment.

Sec. 21. *Be it further enacted,* That it shall be the duty of the clerk to make out a correct docket of all suits

and causes of action brought in the said court, at least fifteen days before the first day of each county court, and deliver the same to the Judge; and should the business require it, he shall direct the sheriff to summon a sufficient number of qualified jurors to attend at the term of such court.

Dockets to be made out by the clerk.

Sec. 22. *Be it further enacted,* That whenever a sufficient number of summoned jurors fail to attend, or are rejected, it shall be lawful to make up the deficiency from the bystanders; and the jurors in the county court shall possess the same qualifications and be liable to the same exceptions as jurors in the Superior court.

Jury may be composed of bystanders.

Sec. 23. *Be it further enacted,* That it shall be the duty of the Judge of the county court whenever he may deem it necessary, to cause a *venire facias* to be issued to summon a grand jury, who shall be governed by like rules as the grand juries summoned in the Superior courts.

Qualification of jurors.

Grand jury

Sec. 24. *Be it further enacted,* That it shall be the duty of the said county courts to order the tax collectors of the counties respectively, to give bond to the Judges of said courts, with two or more good and sufficient securities, and in a sum to be approved of by said courts, conditioned for the faithful discharge of the duties of their office.

Bond of tax collector.

Sec. 25. *Be it further enacted,* That if either party may desire to appeal from the judgment of the county court, he may file his bill of exceptions to the opinion of said court, praying that it may be signed, sealed and made a part of the records, and it shall be the duty of the Judges to inspect the said bill, and if it contain the evidence or point decided correctly and precisely, he shall sign, seal and certify the same to the Superior court of the district in which the cause originated, when the plaintiff in error shall have paid the costs of the suit in the county court, and given bond with two or more securities in a sum sufficient to cover the judgment below and all costs and charges which may accrue.

Appeal from the county court.

Bill of exceptions.

Appeal bond.

Sec. 26. *Be it further enacted,* That should the party neglect to take an appeal, he may at any time thereafter before the final execution of the judgment procure a copy of the record, and if there be error in the proceedings he may assign said error and present it to the Judge of the Superior court, either in term time or vacation, and should the said Judge be of opinion that injustice has

Writs of error to superior court.

Shall operate
as a supersedeas

been done, or that there is error in the proceedings, he may award a writ of error to the county court in which the Judgment was rendered, which shall be a *supersedeas* and shall suspend further proceedings under the judgment or execution, until the matter thereof shall be heard in the said Superior court. The writ of error thus awarded shall be issued by the clerk of the Superior court, and its operation as a supersedeas shall be obeyed by the clerk and sheriff of the county courts respectively, upon notice thereof, which shall be done by the clerk of the Superior court endorsing the writ of error, "supersedeas A. B. clerk."

Appeals from
justices courts,
decision of
county court
when final.

Sec. 27. *Be it further enacted*, That whenever there is an appeal from a justice of the peace to the county courts, and the decision of the justice shall be confirmed, the decision of the county court shall be final, except in such cases as may arise where questions of law are alone involved; Provided however, that no Judge of any court of record in this Territory, when a party in a court of a justice of the peace, shall have a right to appeal from the decision of said justice to his own court.

Passed 20th, November 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To amend an act, and in addition to an act, entitled an act regulating County Courts in the Territory of Florida.

County court.
to be composed
of three judges.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the county courts of the several Counties in this Territory shall be composed of three judges, any two of whom shall be a quorum and constitute a court, and the said judges shall possess and exercise all the power now vested by law in the judges of the county courts; one judge may adjourn the court for three days, and if no other judge attend, the court shall

etand adjourned until the next regular term; the judges of the several counties shall elect or appoint one of their number as presiding judge, who in vacation shall grant letters testamentary and letters of administration to applicants, subject however to the approval of said court in term time, and any two of the said judges may grant injunctions and exercise all the powers now vested in the judges of the several county courts.

President of
the court, now
appointed &c

Passed 20th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 23d 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.



AN ACT

Establishing the boundaries of the counties in this Territory, and appointing the time of holding county courts.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all that part of the Territory aforesaid, lying South of the line commencing at Boca Gasperilla, the mouth of Charlotte harbour on the Gulf of Mexico, and extending up the northern margin of said Charlotte harbour to the mouth of said Charlotte river, thence up the northern margin of said river to lake Macaco, thence along the northern margin of said lake to its most eastern limits, thence in a direct line to the head waters of Potomac river, thence down said river to its entrance into the Ocean, together with all the Keys and Islands of the Cape of Florida, shall constitute a county to be called Munroe county.

Monroe county
boundaries.

Sec. 2. *Be it further enacted,* That a county to be called St. Johns, shall be constituted to be comprehended within a line, begining at the west bank of the river St. Johns, at the point of intersection of the main road from Suwannee and boundary line of Duval county, and eastwardly along the same to the Atlantic Ocean, thence southerly along the Atlantic shore to the point of intersection of a parallel of latitude passing from a point

St. Johns
county.

three miles south of the head of Matanzas south river at Fishé's landing, low water mark, thence westwardly to Hun's Lake north of Hair creek, thence down the said creek to the south end of Huns lake, thence to the mouth of Sulpher spring or the north West side of lake George, thence to the mouth of Deep creek on the river Ocklawaha and line of Alachua county, thence northwardly along said line to the main road from Suwannee, and thence to the place of beginning.

Sec. 3. Be it further enacted, That there be and is hereby constituted a county by the name of Alachua, and that the said county be comprehended within a line corresponding on the west by the river Suwannee, on the north by the boundary line between this Territory and the State of Georgia to the head of the river St. Mary's, thence down said river to the mouth of Big creek, thence up said creek to its southmost head, thence due south to the main road from Tallahassee to Picolata, thence along said road to a point eight miles distant from the western bank of the river St. Johns, thence southwardly to a point on the river Ocklawaha where Deep creek enters into the same, thence up the western bank of the river Ocklawaha to the point where the Indian boundary line as run by Joshua Coffee by order of the United States intersects the same, thence west and south along the said Indian boundary line to the waters of Charlotte harbour, and thence west and north along the shore of the Gulf of Mexico, including the islands to the mouth of the river Suwannee.

Sec. 4. Be it further enacted, That there be and is hereby constituted a county by name a Musquito, and the said county shall be bounded on the north by the county of St. Johns, on the east by the Atlantic Ocean, on the south by Monroe county, and on the west by the Indian boundary line and county of Alachua.

Sec. 5. Be it further enacted, That there shall be constituted a county in this Territory to be called Duval, which shall be comprehended, within a line beginning on the west or the main road from Picolata to Suwannee, at the points where the line of Alachua county intersects the same, thence along the said boundary line northward to the river St. Mary's, and thence to the point of intersection of a line extended due west from Thomas' swamp, thence along the said swamp to the main stream of Nassau river, and along the said river including the

Alachua coun-
ty.

Musquito
county.

Duval county

islands, to and by the north point of Talbot Island, thence along the Atlantic shore southwardly to the point of intersection of a line passing from the Cowford road, at a point twenty miles from the Cowford, thence to a point three miles north of the dwelling house of Philip Solana in Diego plains, and along the said line to the said point on the Cowford road, thence to the nearest waters of Julington creek westwardly, thence down the north bank of Julington creek to the mouth of the same, thence due west across the river St. Johns to the west bank of the same, thence southwardly along the west bank of the river St. Johns to the point opposite Picolata, where the main road from Suwannee intersects the said bank, and thence along the said main road westwardly to the boundary line of Alachua county.

Sec. 6. *Be it further enacted,* That there shall be and is hereby constituted a county by the name of Nassau, and the said county shall be bounded on the north by the boundary line of the State of Georgia, on the east by the Atlantic ocean, on the south by the boundary line of Duval county, and on the west by the river St. Mary's; the boundary line between the counties of Duval and Nassau shall be and commence at the mouth of Nassau river, running thence up the said river to Thomas' swamp, running thence up said swamp to its head waters, running thence in a direct line to the head waters of Big creek, and thence down Big creek to the waters of St. Mary's river, the western boundary of Nassau county.

Nassau county

Sec. 7. *Be it further enacted,* That there shall be constituted a county in this Territory to be called Gadsden, which shall be comprehended within a line corresponding on the west with the Appalachacola river, and on the north by the boundary line of the State of Georgia to a point where the same intersects the western bank of the river Ocklocknee, thence down the western bank of said river Ocklockee excluding the islands of said river, to the most eastern point of James Island, thence south and west along the seaward sides of Dog and St. George Islands to the mouth of the Appalachacola river.

Gadsden
county.

Sec. 8. *Be it further enacted,* That there shall be constituted a county in this Territory to be called Escambia, which shall comprehend all that part of the Territory of Florida lying to the west of a line beginning at the east end of St. Rosa Island in the Gulf of Mexico, running

Escambia
county.

thence a northwardly course to a point where the boundary line of Alabama and Florida crosses the Black water creek.

Walton county

Sec. 9. *Be it further enacted,* That there be and hereby is established a county to be comprehended within the following boundary lines, begining on the boundary line at the point where the same crosses the Black water creek running east along the boundary of said Territory to where the same intersects the Choctawhatchie river, thence down the channel of the same including the bay to the Gulf of Mexico, thence along the shores of the Gulf to the beginning, to be called Walton county.

Washington
county.

Sec. 10. *Be it further enacted,* That there shall be constituted a county in this Territory to be called Washington, which shall be comprehended within the following described limits, begining at Bunkers on the Choctawhatchee river, running thence up said river on the east boundary line of Walton county to the Alabama line, thence east on said line to the east line of range the fifteenth, thence a direct line to Oaky hill to where the same shall intersect the western boundary line of Jackson county, thence along the southern and eastern boundary line of said county (Jackson) to where the same intersects the Appalachacola river, thence down the western bank of said river including cape St. Blas and the islands of said bay, together with the islands along the main, thence a direct course to the head of St. Rosa's island, thence bounded by the eastwardly line of Walton county to the beginning.

Madison coun-
ty.

Sec. 11. *Be it further enacted,* That there shall be and hereby is established a county by the name of Madisen, to be comprehended within the following boundary line to wit: on the west by the Oscilla river and its most eastern branch or fork, on the north by the boundary line of the State of Georgia, east by the Withlacoochee and Suwannee rivers, and on the south by the Gulf of Mexico.

Hamilton
county.

Sec. 12. *Be it further enacted,* That there shall be and hereby is established a county by the name of Hamilton, to be comprehended within the following boundary lines, viz: on the west by the river With'acoochee, north by the boundary line of the State of Georgia, and south and east by the river Suwannee.

Jefferson coun-
ty.

Sec. 13. *Be it further enacted,* That there be and hereby is established a county by the name of Jefferson,

to be comprehended within the following boundary lines, viz: on the west beginning at a point on the Gulf of Mexico where the line between range two and three south and east, strikes the same, thence north with said range line to the south west corner of township one, range three, south and east, thence in a direct line to where the Mickasucky sinks, thence up said lake to the Georgia line, on the north by the State of Georgia, on the east by the county of Madison, on the south by the Gulf of Mexico.

Sec. 14. *Be it further enacted,* That there be and is hereby constituted a county by the name of Leon, and the said county shall be comprehended within a line corresponding on the west with the eastern boundary line of Gadsden county aforesaid, on the north and east by the county of Call, and on the south by the Gulf of Mexico.

Leon county.

Sec. 15. *Be it further enacted,* That the county courts of Monroe county shall hereafter be holden at the island of Key West, on the first Mondays of April and October in each and every year.

County court
of Monroe.

Sec. 16. *Be it further enacted,* That the county courts of St. Johns county shall hereafter be holden at the city of St. Augustine, on the second Mondays of April and October in each and every year.

County court
of St. Johns.

Sec. 17. *Be it further enacted,* That the county courts of Alachua county shall hereafter be holden at Newnansville, on the second Mondays of March and October in each and every year.

County court
of Alachua.

Sec. 18. *Be it further enacted,* That the county courts of Musquito county shall hereafter be holden at the place appointed by law, on the second Mondays of April and October in each and every year.

County court
of Musquito.

Sec. 19. *Be it further enacted,* That the county courts of Duval county shall hereafter be holden at Jacksonville, on the first Mondays of May and October in each and every year.

County court
of Duval.

Sec. 20. *Be it further enacted,* That the county courts of Nassau county shall hereafter be holden at the place appointed by law, on the second Mondays of May and October in each and every year.

County court
of Nassau.

Sec. 21. *Be it further enacted,* That the county courts of Gadsden county shall hereafter be holden at the seat of justice of said county, on the second Mondays of January and July in each and every year.

County court
of Gadsden.

Sec. 22. *Be it further enacted,* That the county courts

County court
of Escambia.

of Escambia county, shall be holden at the seat of justice for said county, on the first Mondays of April and October, in each and every year.

Sec. 23. Be it further enacted, That the county courts of Walton county, shall hereafter be holden at the seat of justice for said county, on the second Mondays of April and October, in each and every year.

County court
of Walton.

County court
of Jackson.

County court
of Washington

County court
of Madison.

County court
of Hamilton.

County court
of Jefferson

County court
of Leon

Sec. 24. Be it further enacted, That the county courts of Jackson county shall hereafter be holden at the place appointed by law in said county, on the third Mondays in April and October in each and every year.

Sec. 25. Be it further enacted, That there shall be held a court in the county of Washington, on the fourth Mondays of April and November, and until the county seat shall have been permanently established, said court shall hold its session at the house of John Bush until otherwise provided for.

Sec. 26. Be it further enacted, That the county courts of Madison county shall hereafter be holden at the place appointed by law, on the second Mondays of April and October in each and every year.

Sec. 27. Be it further enacted, That the county courts of Hamilton county shall hereafter be holden at the place appointed by law, on the fourth Mondays of April and October, in each and every year,

Sec. 28. Be it further enacted, That the county courts of Jefferson county, shall hereafter be holden at Monticello, on the fourth Mondays of March and September in each and every year.

Sec. 29. Be it further enacted, That the county courts of Leon county shall hereafter be holden at the city of Tallahassee, on the third Mondays of March and September in each and every year.

Sec. 30. Be it further enacted, That until the permanent seat of justice of the county of Call shall be established as aforesaid, the county courts shall be holden at the house of John C. Brown, on the first Mondays in March and September, in each and every year.

Passed 23d November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 23d, 1828. Except that part of the 13th section establishing the county boundaries of Call.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To organize and regulate the militia of the Territory of Florida.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That every able bodied free white male inhabitant of the Territory, between the ages of eighteen and forty-five years, who shall have resided in the same four weeks, shall be liable to be enrolled and perform militia duty; Judges of the Superior courts and their marshals and district attorneys, Judges of the county courts, Justices of the Peace, Sheriffs, Clerks, post-masters, mail carriers, ferry men, clergymen, teachers of public seminaries of learning and keepers of jails, are hereby exempt from serving or doing militia duty in time of peace.

Persons liable
to per annum militia duty.

Sec. 2. Be it further enacted, That no officer or private shall be arrested by any civil process whilst attending any muster or court martial, or whilst going to or returning therefrom, and any arrest or service of process or execution on the persons at such times, is hereby declared false imprisonment; and all persons going to or returning from muster or court martial shall pass all ferries and bridges free of expense.

Persons ex-
empt.

Exemption
from arrest:

Sec. 3. Be it further enacted, That the arms and accoutrements kept by the militia and used for duty, shall be exempt from execution under civil process.

Arms exempt
from execution

Sec. 4. Be it further enacted, That the Governor as commander in chief of the militia shall be entitled to the following staff: one adjutant General, one quarter master general with the rank of Colonel commandant, who shall reside at the seat of Government, and four aids-de camp with the rank of Lieut. Colonel.

Staff of the
governor.

Sec. 5. Be it further enacted, That the Militia shall be organized into two brigades, ten regiments twenty battallions, and into not less than seven companies for each regiment, and shall be officered as hereinafter provided for; the brigades respectively shall be officered by one Brigadier General, one assistant adjutant General, brigade inspector, brigade quarter master with the rank of Lieutenant Colonel, and two aids de camp with the rank of Major; the staff of each regiment shall consist of one adjutant, one quarter master, one paymaster to rank as captain, one surgeon, surgeons mate, one

Division of the
militia.

Brigade staff.

Regimental
staff.

Company
officers.

sergeant major and quarter master sergeant ; the company shall be officered respectively by one captain, one first, second and third lieutenant, four sergeants, four corporals and a drummer and fifer, and shall not exceed sixty four, nor have less than thirty two privates.

Appointments
how made.

Sec. 6. *Be it further enacted,* That all commissions shall emanate from the Governor, and the appointments be made in the following manner, to wit : all field officers shall be appointed by the Governor by and with the advice and consent of the Legislative Council, staff officers of every grade shall be appointed by their respective commanders, that is to say the Governor, Brigadiers General of the line and Colonels shall appoint their own staff; company officers shall be elected by the privates in the respective beats, a majority of whose votes shall be sufficient for that purpose ; the non-commissioned officers shall be appointed by the commanding officers of companies annually, who shall serve for the term of one year or pay a fine of twenty dollars, at the discretion of a court martial.

Company
officers.

Sec. 7. *Be it further enacted,* That the rendezvous for each brigade, regiment and battalion shall be designated by the respective commanders in case of an invasion or insurrection, that all officers may know to what point they are to concentrate; and it shall be the duty of each field officer to notify each inferior officer of their respective place of rendezvous under the penalty of one hundred dollars, and who shall also communicate the same to the Brigadier General commanding, who shall cause an abstract of said places of rendezvous to be made out and forwarded to the Adjutant General on or before the first day of June next.

Rendezvous
in case of inva-
sion &c.

Duty of Briga-
dier general.

Sec. 8. *Be it further enacted,* That it shall be the duty of each Brigadier General of the line to order regimental musters annually, and to give thirty days notice thereof to the commanding officers of the respective regiments ; Provided, that a majority of the field officers of each regiment shall inform the said Brigadier General that it is their wish to have regimental musters annually in their respective regiments ; he shall attend every such regimental muster and review the regiments, he shall see that the Adjutant General does his duty ; he shall have power and it shall be his duty to arrest the Adjutant General or any Colonel for negligence, incapacity, disobedience, rioting, insubordination at all times

Special court
martial.

and also for drunkenness, ungentlemanly conduct when on parade or in actual service, and detail a special court martial to try such officer on charges alledged, to consist of seven members, three of whom to be of equal grade with the officer accused, which court shall meet, choose a President and Judge advocate from its own body, shall have power to compel the attendance of witnesses and members, and shall be qualified in the usual way; and any such officer so arrested, shall be tried and censured, suspended or cashiered as the case may require, provided the Executive sanction such sentence.

Sec. 9. Be it further enacted, That it shall be the duty of the adjutant General to obey and transmit all orders received from the Executive or Brigadier General; he shall keep a register of the officers of the brigade, their grades and promotions; he shall also keep a register of the strength and arms of the brigade as furnished him by the different adjutants of regiments according to regiments, battalions and companies, and shall record all general orders; he shall make out and transmit the detail when a portion of the militia is to be drafted, preserve a complete muster roll of them, and furnish them to the extent of his means with suitable equipage; he shall forward to the different adjutants suitable blank forms of inspection, muster and pay rolls of regimental, battalion and company provision returns, and he shall record the sentence of any court martial held for the trial of any officer, and he shall every twelve months, and oftener if required, report to the Executive fully the strength and condition of the brigade, according to regiments and battalions.

Duty of the Adjutant general.

Sec. 10. Be it further enacted, That it shall be the duty of the quarter master General to receive the annual returns made by the regimental and brigade quarter masters of the state of the public arms and accoutrements, and other public property applicable to military purpose, and make a report annually of the same to the Executive of the Territory, and shall do and perform such other duties when in actual service as are prescribed by the regulations of the army for the quarter master's department.

Duty of quar-
master general

Sec. 11. Be it further enacted, That it shall be the duty of each Colonel commandant to give fifteen days notice by his adjutant, of the time and place of holding regimental muster to every commissioned officer in the

Duties of the
colonel.

regiment ; he shall attend the regimental muster of his regiment and have the regiment properly drilled ; he shall with the assistance of his adjutant in case of the absence of the brigade inspector, assemble and drill for two days together the commissioned and non-commissioned officers of the regiment, in the march, the manuel, and the most approved evolutions, and in camp duty at some convenient place in the regiment, having advertised notice of the term [time] and place of holding such drill for twenty days previously thereto, at the place designated for holding such drills ; he shall order battalion musters annually in his regiment, and give fifteen days notice thereof to the commanding officers of said battalions, and attend himself at such musters, he shall call out his regiment or any part thereof in case of alarm, he shall obey and execute all orders directed to him from a superior officer, he shall have power and it is his duty, to arrest any officer of his regiment for any offence as enumerated in the preceding section of this act, and detail a special court martial from his regiment to consist of five members, out of whom [three] to be of equal grade with the accused, to try such officers on charges alleged, such court shall qualify, choose their officers, have the same power and proceed in the same way, that the court proceed in the eighth section of this act, provided, that no sentence of such court martial shall be executed, unless approved by the executive ; he shall detail a regimental court martial once in each year to assess fines on commissioned officers, and to hear appeals from company court martials ; he shall note down and return the delinquencies of his lieutenants Colonel, majors, adjutants, quarter master, pay master, surgeon and surgeons mate to the regimental courts martial, he shall give due notice of the meeting of a regimental court martial to members and defaulters, and he shall execute all other duties of a Colonel commandant ; he shall lay off his respective regiment into battalions and assign to the lieutenant Colonel his battalion, which shall not consist of less than four companies, also assign to the Major his battalion, which shall not consist of less than three companies.

Division into battalions.

Duty of Lieutenant Colonels and Majors.

Sec. 12. Be it further enacted, That it shall be the duty of the lieutenant Colonel and Major to obey and execute all orders from a superior officer, they shall give eight days notice by the adjutants to their captains in their respective battalions of any battalion muster attend such

muster [and] drill the battalion, they shall with the assistance of the adjutant assemble and drill for one day, the commissioned and non commissioned officers of the respective battalions, at the place of holding battalion musters in said battalion, which shall be on the day preceding the day of battalion muster, in the march, manual and the most approved evolutions, and having advertised notice of the time and place of holding such drill, at least fifteen days previously thereto, they respectively shall furnish to the adjutants as often as required, an account of the strength and condition of their said respective battalions, and they shall respectively return the captains in their respective battalions for any delinquency &c.

Sec. 13. Be it further enacted, That it shall be the duty of the Regimental adjutant to attend all field musters in the regiment, and prepare the regiment or battalion musters for review or evolution; he shall keep a register of the officers of the regiment with their grades and of their [the] strength and condition of each company, he shall obey all orders from his Colonel, Lieutenant Colonel or Major, and serve all notices or process directed to him or the officers of his regiment; he shall attend the regimental courts martial held for the assessing of fines as judge advocate, shall collect all fines assessed by such court on officers and pay them over to the pay-master of the regiment, he shall keep a record of all general regimental or battalion orders, and of the proceedings of regimental courts martial, he shall keep a register of every private and officer drafted or detailed for duty, muster, inspect and march to the place of rendezvous every detachment of detailed militia, and forward a complete muster roll of them to the adjutant general, he shall distribute to the Captains of the regiment, such forms as the adjutant general may furnish them, he shall forward to the adjutant general semi-annually, a complete return of the strength, arms and condition of his regiment according to companies, and such adjutant shall receive such compensation as the regimental court martial shall think right for his services, to be paid by the paymaster of the regiment, out of fines collected, on [an] order from the President of such court martial.

Sec. 14. Be it further enacted, That it shall be the duty of the Quarter master to attend the field muster, choose a place for parade and with his guard prevent disturbance, he shall make annual returns to the quarter .

Duties of the
regimental ad-
jutant.

Duty of the
quarter master

master general of the state of the public arms and accou-
tremens and other public property belonging to the regi-
ments applicable to military purposes, and shall do
and perform such other duties as may be required of him
by the commanding officers of the regiment or batalion,
as are prescribed by the regulations of the army of the
United States for the quarter master's department,

Duty of the
Pay master.

In case of de-
faulting collec-
ting officers.

Duties of the
Captain.

Fines.

On a Colonel.

Sec. 15. *Be it further enacted*, That it shall be the duty of the Paymaster of each regiment, independantly of such duties as may be required of him by the commanding officer, to demand and receive from the different Sergeants of the companies and adjutant, all monies which they may have respectively collected and received or ought to have received as militia fines, and in case that such sergeant or adjutant neglect or refuse to pay the amount of fines so by him collected, or which ought to have been collected, on demand being made by the paymaster of the regiment, it shall be lawfvl for such paymaster on giving ten days notice to such defaulter, to move to the next regimental court martial for an assessment of the amount which such defaulter has [net] paid over, and the same shall be recovered and collected by the said paymaster as is provided for the collection of fines in other cases.

Sec. 16. *Be it further enacted*, That it shall be the duty of the Captain to hold musters and court martials every three months, to give seven days notice of every regimental, battalion or company muster to his subalterns and privates, and the same notice to all defaulters of the time of holding his company court martial ; he shall note down and return to the regimental courts martial the delinquencies of his subalterns, and shall cause his sergeant to note down and return all delinquencies of non commissioned officers and privates to his company court martial, he shall drill his company in the step, the manuel and the most approved evolutions.

Sec. 17. *Be it further enacted*, That the following fines shall, without arrest, be assessed on officers and privates in default at the stated regimental and company courts martial ; on a Colonel for non attendance at any regimental or battalion muster, or any drill of the officers, or any regimental courts martial, fifteen dollars ; for omitting to order battalion musters annually, ten dollars ; for failing to detail a regimental court martial, once in each year and giving to the members and defaulters due no-

tice and presiding at such court, twenty dollars; for failing to call out his regiment on alarms or failing to hold any draft ordered, one hundred dollars; for a deficiency in any article of uniform or arms, ten dollars; for neglecting the order music and colours, to be purchased by the quarter master and distributing the same, ten dollars; for neglecting to take bond of the adjutant and paymaster, ten dollars; for failing to arrest, and detail a special court martial to try, any officer in his regiment for any offence above recited, twenty dollars; for failing to return his Lieutenant Colonel and Major, adjutant, quarter master and pay-masters, surgeon and surgeons mate for any default of them or either of them, twenty dollars; on Lieutenant Colonels and Majors for non attendance at any regimental muster, ten dollars; for non attendance at their respective battalion musters or regimental court martial, ten dollars; for failing to give notice to their respective Captains of any field muster or regimental court martial, ten dollars; for any deficiency of any article of uniform or arms, ten dollars; for failing to turn out their respective battalions in order, or execute any draft thereon, one hundred dollars; for failing to return their respective Captains in default to the regimental courts martial, fifteen dollars; for failing to make a return of their respective battalions to the adjutant semi-annually, twenty dollars; on an adjutant for failing to execute any one article of his duty as enumerated in this act, any sum that the regimental court martial shall judge sufficient, not to exceed fifty dollars; on a quarter master for failing to execute any item of his duty as enumerated in this act not exceeding twenty dollars; on pay-masters for failing to account with the regimental court martial, twenty dollars; for failing to execute any other item of his duty as enumerated in this act, not exceeding twenty dollars; on captains and sub-alterns for non attendance at any field or company muster, regimental or company court martial or drill muster, eight dollars; on a captain for failing to give any notice of any field or company muster or company court martial, ten dollars; for failing to drill his company every three months, or to hold courts martial every three months and give notice to members and defaulters, five dollars; for deficiency in any article of uniform or arms in any captain or sub-altern, five dollars; for failing to appoint and notify non commissioned officers, ten dollars; for not returning to

On lieut. colo-
nels and majors.

On adjutant

On quarter
masters.

On pay mas-
ters.

On captains.

On non commissined officers and privates.

the regimental courts, his subalterns for default, five dollars ; for failing to have his company rolls called at each field or company muster, and return all defaulters to the next company court martial or regimental court martial, as the case may be, ten dollars ; for failing to appoint patrols duty, ten dollars ; for failing to have all in his beat enrolled or neglecting to return any private for misbehaviour &c, ten dollars ; for failing to make to his lieutenant colonel, major [or] adjutant a complete return of the strength and arms of his company once every twelve months, ten dollars ; the same fines shall be imposed upon subaltern officers who have command of any company in the absence, vacation or resignation of the captain of said company ; on non commisssioned officers or privates for refusing to act, ten dollars ; for failing to give any notice, serve any process, obey any order of his superiors, ten dollars ; for failing to make any return in writing to his commanding officer of the manner he has executed any order, ten dollars ; for failing to pay over any money collected, double the amount thereof ; for non attendance, drunkenness, rioting or misconduct on duty, arrest for the day and a fine not exceeding ten dollars ; for deficiency of any article of arms, ten dollars ; for refusing to turn out in any alarm, not exceeding twenty dollars ; for failing to repair to the place of rendezvous or furnish a sufficient substitute, twenty dollars ; Provided, that all reasonable excuses shall be allowed, provided also, that any defaulter returned may previous to the fine being assessed, go before any justice of the peace and make oath or proof of his excuse for non attendance at any muster, which shall be read in evidence on his trial before such court martial.

Company Courts martial

Sec. 18. *Be it further enacted,* That the three officers of a company or any two of them shall hold courts martial every three months, at their muster grounds or as near the same as may be convenient, within ten days after they shall have their respective muster, in which they shall assess all fines incurred by non commisioned officers and privates at any regimental, battalion or company muster, or in any other way whatever having given to each defaulter five days notice of the time and place of holding such court martial, and having taken the one to the other on [an] oath, to render impartial justice to all accused according to law and to the best of their knowledge ; and any person aggrieved by the sen-

ence of any company court martial may appeal to the regimental court martial next succeeding; provided, such person give security to the President of such court below to pay the fine in case the sentence he confirmed.

Sec. 19. *Be it further enacted,* That the commanding officer of a regiment shall once in every twelve months detail a regimental court martial, to consist of at least five officers, the commanding officer present shall in all cases be President, who shall administer the necessary oaths to both the officer and witness, such court shall assess all fines incurred by the Colonel commandant, lieutenant Colonel, Major or any other commissioned officer of the regiment in the cases above recited, and shall hear and decide all appeals sent up, and confirm or reverse them, and send by the adjutant a list of cases to each company so confirmed or reserved [reversed] that that the fine may be collected in the company; no officer shall sit whilst his own case is considered; the adjutant shall give ten days notice to the members and defaulters of the sitting of the regimental court martial on an order from the Colonel commandant, and any officer may return the Colonel or any other commissioned officer in default to the regimental court martial for trial.

Sec. 20. *Be it further enacted,* That the orderly sergeant of each company shall collect all fines assessed in company courts martial on an order from the President of such court, containing a particular account of the amount of all fines, how and when incurred, and the names of the persons against whom they are assessed; and the adjutant shall collect all fines assessed by the regimental court martial on a like order from the President thereof; for the faithful discharge of their duties the sergeants shall give bond with sufficient security to their captains, and the adjutants to their colonel, and they respectively shall pay over all fines collect [collected] to the paymaster and take his duplicate receipt; they shall respectively receive the fees to which sheriffs are entitled upon executions, and besides retain ten per cent on the amount collected, and in case the said officers can find no property, either of them may seize the person of any defaulter and lodge him in jail until the fine is paid; provided such defaulter shall swear before some justice of the peace that he is not worth the fine, which shall be a sufficient discharge and bar of the said fine, and such defaulter shall be from thenceforward arrested for all de-

Regimental
courts martial

Sergeants, to
be collecting
officers of com-
panies.

Adjutant col-
lecting officers
of regiments.

Fees.

Arrest of the
person for de-
fault.

faults for not a longer time than twelve hours, at the discretion of the court martial.

**Imprisonment
of officers and
privates.**

Invalids.

**Persons liable
to do duty.**

**Formation of
Volunteer
corps.**

**Volunteers
shall be attach-
ed to regiments
within which
they muster.**

Sec. 21. Be it further enacted, That any officers or private may be put in confinement for the day, or any bystander that shall interrupt a muster, drill or court martial, and any person enrolled appearing at any muster or drill shall be ordered into the ranks, and if he refuse shall be put in confinement for the day and fined in a sum not exceeding five dollars ; and no person shall be exempted as an invalid, unless a regimental court martial shall certify that he is wholly unfit and unable for services, and in all such cases the opinion of the regimental surgeon shall be required.

Sec. 22. Be it further enacted, That in all cases the commanding officer of a beat-company, shall compel every person enrolled or residing in his bounds to do duty until such person shall have produced a certificate from the captain of some volunteers, light corps or troops of cavalry, that his [he is] legally enrolled in such light corps or troops, and is equipped as such corps or troops require.

Sec. 23. Be it further enacted, That the volunteer or independant companies of cavalry, artillery, or infantry or riflemen may be found on the conditions nevertheless hereinafter prescribed: the members of a company so forming shall prescribe certain rules and regulations for the government of the same, which shall be submitted for the inspection of the Colonel of the regiment, and if approved by him, such company may be formed; provided that in no case shall a volunteer company of any description be raised unless by the consent of the Colonel commandant first had and obtained. Volunteer companies may wear such arms and uniforms as the officers thereof, with the approbation of the company, may direct; they shall muster every three months, and as often thereafter as to them may seem fit.

Sec. 24. Be it further enacted, That all volunteers, light corps of infantry or riflemen and troops of cavalry shall be attached to, and do duty at all field musters with the regiment and battalion, in which their places of mustering may respectively be, and shall be subject to the orders of the officers of the regiment, and to the regimental courts martial, and shall hold company courts martial with appeals as above provided; and in regard to fines, notices and every other particular of duty, such

corps shall be governed precisely as any other beat company.

Sec. 25. *Be it further enacted*, That any officer commissioned by virtue of this act, before he enters on the duties of his office shall take an oath, to support the Constitution of the United States, and the following oath or affirmation, to wit : "I do solemnly swear or affirm that I will execute the duties of my office as — according to the best of my abilities," which oath or affirmation shall be endorsed on the back of the commission by the person advertising [administering] the same.

Oaths of com-missioned off-icers.

Sec. 26. *Be it further enacted*, That it shall be the duty of the Brigade Inspector to attend the regimental drills and musters of the militia in his brigade—to inspect their arms and accoutrements, and superintend their exercise and manouvres, and introduce the proper system of military discipline according to this act.

Duty of the brigade in-spector.

Sec. 27. *Be it further enacted*, That all militia officers now in commission, or that may be hereafter commissioned shall remain in commission during their good behaviour, unless they shall be removed by a court martial or resign ; and that no commissioned officer, after accepting his said commission, shall be permitted to resign within two years from the date of said commission, unless he removes himself without the company district, battalion or regiment, and in all such cases, absence or removal from said place of residence three months, shall be deemed a vacation of said office.

Term of office, of officers.

He shall not resign within two years.

Sec. 28. *Be it further enacted*, That the first regiment shall comprise the militia of Escambia county ; the second regiment shall comprise the militia of St. Johns and Musquito counties ; the third regiment shall comprise the militia of Jackson county ; the fourth regiment shall comprise the militia of Duval and Nassau counties ; the fifth regiment shall comprise the militia of county of Gadsden ; the sixth regiment shall comprise the militia of Alachua county ; the seventh regiment shall comprise the militia of Leon county ; the eighth regiment shall comprise the militia of Washington and Walton counties ; the ninth regiment shall comprise the militia of the counties of Jefferson, Hamilton and Madison ; the tenth regiment shall comprise the militia of Monroe county.

Location of regiments.

Sec. 29. *Be it further enacted*, That it shall not be necessary for any officer to be in their uniform in order to

Uniform of offi-cers.

qualify them to sit at any court martial above mentioned, neither shall any fine be imposed upon an officer under this act for not having a uniform at any drill or muster or until the expiration of twelve months from the date of his commission shall have elapsed.

Repealing clause.

Sec. 30. *And be it further enacted,* That the "act to organise and regulate the militia of the Territory passed January 18th 1828, and approved January 19th 1828, be and the same is hereby repealed and that this act shall be in full force and effect from and after the first day of January next.

Passed 19th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.



AN ACT

To raise a Revenue for the Territory of Florida

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That a Territorial tax shall be assessed and collected in each and every year, (and paid into the Treasury of this Territory,) on all such persons and property, and in such manner as shall be hereinafter mentioned; to wit, Upon every acre of first rate land, half a cent; Upon every acre of second rate land, one quarter of a cent; and upon every acre of third rate land, one eighth of a cent; Upon all lots within the limits of any Town, Ville or City in this Territory, the sum of five cents; On every hundred dollars of the value thereof, exclusive of the improvements built thereon; Upon every slave over the age of fifteen years and under fifty, the sum of twenty five cents; Upon every free man of colour over the age of twenty one years and under the age of sixty years, the sum of fifty cents; Upon every hundred dollars of the amount of sales of merchandise within the year immediately preceding the first of February, in each and every year, the sum of five cents; Upon every Inn or Tavern keeper in any Town, Ville or

Territorial tax
to be assessed.

On land.

On town lots.

On slaves.

On sales of
merchandise.

On tavern
keepers.

City in this Territory, the sum of five dollars; Upon every retailer of spirituous liquors under half a gallon, the sum of two dollars; Upon every billiard table set up or used for play the sum of fifty dollars, and upon all four wheeled pleasure carriages, the sum of one dollar; Provided, this shall not be so construed as to authorise the assessing and collecting of any tax on the estate real or personal of any religious society, or the real or personal estate of any institution for the education of youth, or the maintenance of schools, provided, such institutions be actually located and exist within this Territory; or on lands belonging to the United States, or on lands, the titles to which are litigated under the treaty with Spain.

On retailers.
Billiard tables.

On carriages.

Proviso in fa-
vor of certain
societies.

Soc. 2. *Be it further enacted,* That the Assessors and Collectors of the different counties respectively in taking the lists of taxable property and collecting taxes, shall have reference to the first day of February in each and every year hereafter.

Reference to
be had to 1st of
February.

Soc. 3. *Be it further enacted,* That it shall be the duty of the County court for each county in this Territory, on the first Monday of March in each and every year, to appoint an assessor and collector of taxes for their respective counties; and it shall be the duty of the persons appointed as aforesaid before they enter on the duties of their respective offices, to enter into bond payable to the Governor of the Territory and his successors in office, with good and sufficient security to be approved by said court, and shall make oath, that they will faithfully discharge the duties required of them by this act: The said assessor shall enter into a bond of five hundred dollars, conditioned for the faithful discharge of all the duties required of him by this act; and the said collector shall enter into a bond of one thousand dollars, conditioned for the faithful collection of all the taxes embraced in the list furnished him by the assessor, and the payment of them over to the persons authorised to receive the same, within the time prescribed by law, which bond shall be recorded by the clerk of said county, and the originals shall be transmitted by such clerk to the Secretary of the Territory and in his office shall be safely kept; a certified copy of which bond or bonds, under the hand of said Secretary and seal of the Territory, shall be received in evidence in any court of law or equity in this Territory, in the same manner as the original would be, in any

County court
to appoint as-
sessor and col-
lector.

Their duty.

Oath.

Penalty of as-
sessors bond.

Collectors
bonds.

To be recorded
in Secretary's
office.

Certified copy
of evidence.

suit brought on said bonds or either of them, and said bonds shall not be void on the first recovery, but may be put in suit and prosecuted from time to time, until the whole penalty thereof shall be recovered.

*Assessor and
collector fail-
ing to give
bond,*

Sec. 4. Be it further enacted, That should the said assessor or collector fail to execute bond as aforesaid within fifteen days after his appointment, it shall be the duty of said court, within ten days thereafter, to appoint another assessor or collector in the place of the one failing as aforesaid, who shall give bond and security as is prescribed in the foregoing section.

*Duty of asses-
sor.*

Sec. 5. Be it further enacted, That it shall be the duty of said assessor, after having executed his bond as aforesaid, to attend at least twice between the first day of April and the first day of June in each and every year, for the purpose of taking the returns of taxable property, at or near the muster ground in each Captain's district in the county for which he has been appointed, having previously given at least fifteen days notice by an advertisement posted up at the most public place in said district, of the times and place of his attendance for the purpose of assessing the taxes prescribed by this act, and before closing his returns it shall be his duty to attend one additional day at the court house in his county, having given ten days previous notice of the time of such attendance, for the purpose of receiving lists from such persons as may not have given in previously.

*Penalty for
acting without
giving bond
&c.*

Sec. 6. Be it further enacted, That if any assessor or collector of taxes shall presume to execute the duties of his office before he shall have given bond and taken the oath of office agreeably to the directions of this, all such his acts and proceedings done under colour of his office shall be absolutely void and he shall for such offence be liable to be indicted for a misdemeanor, and on conviction thereof, before any court of competent jurisdiction, he shall be fined in any sum not exceeding one thousand dollars and imprisoned for any length of time not exceeding six months at the discretion of the court.

*Public debtor
shall not be as-
sessor or col-
lector.*

Sec. 7. Be it further enacted, That no person shall hereafter be appointed assessor or collector of taxes in any county within this Territory, who shall be indebted to the Territory for money before that time collected by such person, which by law ought to have been paid into the public Treasury.

Sec. 8. Be it further enacted, That any person who

shall on the first day of February in each and every year be possessed of any property real or personal, either as agent, attorney, administrator, executor, guardian or parent, or in his or her own right, or in right of his wife (if such property be subject to taxation under this act,) shall render to the assessor of taxes of the county where such property is found or situated, a true and perfect list thereof, in the manner directed by this act; and the person rendering such list shall be liable for all taxes which may be assessed thereon; and any person who shall sell or convey away any property, either real or personal, of which he or she was possessed on the first day of February as aforesaid, shall render a list of the same with his or her other taxable property for that year.

List of taxable property to be rendered to assessor.

Sec. 9. Be it further enacted, That it shall be the duty of every person to render to the assessor of taxes in the county in which they reside, a correct list of all the taxable property they hold therein, which list shall contain an enumeration of all such property in his or her possession as aforesaid within said county, and in the account of lands, a particular description of the situation and quality of the same, and to which class it belongs, and also such lot of land within any Town, City or Ville with the dimensions thereof, also the amount of his or her sales of all merchandize sold within the year ending on the first day of February next preceding the time of rendering such list; and the assessor shall state in the last column of his list the total amount of taxes due from each person.

List, what to contain.

Sec. 10. Be it further enacted, That in case any person shall neglect or refuse to deliver to the assessor within the county in which he or she resides, a list of property in his or her possession, liable to taxation as aforesaid, within the time limited for taking such list, the person so refusing or neglecting shall pay double taxes on all such property as he or she may possess, according to the best information concerning the same which the assessor can obtain; and every person rendering a list of his or her property liable to taxation shall certify, that the list contains a true description and account of all the property, real and personal, subject to taxation, according to the provisions of this act, of which he or she is possessed in the county of _____, either in his own right, or in right of his wife (if he have one,) or as agent, at-

Double tax on persons refusing to give in a list.

Certificate to be attached to list.

Persons living
in other coun-
ties.

torney, executor administrator or guardian for the use of any other person or persons whatsoever: and any person who shall possess taxable property in any county other than the one where he resides, and shall have no agent or attorney therein, shall transmit a list of such property certified as aforesaid, to the assessor of the proper county, but if the county line shall run through any tract of land whereupon any person resides, the owner or proprietor shall give in the same to the assessor of the county of his or her residence; and every person who shall refuse or neglect to comply with any of the requisitions herein contained shall be doubly taxed in manner aforesaid.

Penalty.
Duty of asses-
sor in mak-
ing tax books.

Sec. 11. Be it further enacted, That every assessor of taxes shall complete the list of taxable property in his county within the time prescribed in a preceding section, and shall make out three complete lists of all taxable property, together with the names of the persons chargeable with taxes thereon, and the amount of the taxes due from each person, one of which he shall deliver to the collector of taxes, one copy of the same he shall deposit in the office of the county court, with the clerk thereof of the proper county for the inspection of any person who shall choose to examine the same, and one list he shall transmit to the office of the Treasurer of this Territory on or before the first day of July in each and every year.

Assessor mak-
ing false lists
&c.

Sec. 12. Be it further enacted, That if any assessor of taxes shall take or return as aforesaid a false list of the assessment of taxes made in his county, with intent to defraud the revenue of the Territory, the assessor and collector so offending, shall on conviction thereof, for every such offence forfeit and pay the sum of five hundred dollars, to be recovered by action of debt or information in any court of competent jurisdiction, in the name of any person who shall sue for the same, one moiety thereof to such person, and the other moiety to the Territory.

Property com-
ing into county
after time spec-
ified

Sec. 13. Be it further enacted, That the assessor shall have power to assess any taxable property that may come into his county between the first day of February and the first day of June in each and every year, under the same rules and regulations as are provided in other cases.

Sec. 14. Be it further enacted, That it shall be the

duty of the tax collector appointed agreeably to the provisions of this act, after they shall have received a list of the taxes to be collected in their respective counties, to attend at least twice, at or near the muster ground, in each captains district in their respective counties, and it shall also be their duty after having attended in the captain's district as aforesaid, to attend one additional day at the Court-house of their respective counties, giving ten days previous notice of such attendance, for the purpose of affording all those who have not previously paid their taxes, an opportunity of doing so.

Duty of tax
collectors, in
making col- c
tions.

Sec. 15. *Be it further enacted,* That it shall be the duty of every person liable to pay taxes under the provisions of this act, to pay the same to the tax collector in the county in which he lives, on or before the first day of September in each and every year.

Time of pay-
ment of taxes.

Sec. 16. *Be it further enacted,* That the collectors of taxes of the several counties in this Territory shall have power and they are hereby authorised, from and after the first day of September in each and every year, to make distress and sale of all the goods and chattels lands and tenements of all delinquents, who shall not have made payment of the taxes due for that year; Provided, that notice of such sale shall be given by advertisement at the door of the Court-house of the proper county, and at least two other public places within the county, at least ten days previous to the day of sale, where the distress shall be of goods and chattels; and where the delinquent has no goods and chattels within the county; then the lands and tenements of said delinquent, within the county may be sold by the collector, or so much thereof as shall be sufficient to pay and satisfy the amount of taxes due from such delinquent, together with all costs and charges arising thereon; Provided always, that the collector shall give, in the nearest newspaper published in the Territory, at least three months notice previous to the sale of any real estate, and in the case of non-residents, at least six months notice of the time and place of such sale, which notice shall contain a particular description of the lands and tenements for sale and what water course situated on, and by what lands the same are bounded, and by whom the same may be owned or claimed; and when real property is sold, the sale shall always be at the Court-house of the proper county, and there shall not be sold in one lot more than

Distress and
sale of de in-
quents' goods
and chattels,
lands &c.

Notice of sale
of chattels.

Notice of sale
of lands.

If nonresident.

Manner of
sale.

fifty acres of land land; but if one lot shall not sell for the amount of taxes due from the delinquent, together with all costs and charges that shall have accrued thereon, the collector shall sell as many more lots or parts of lots as shall raise the full amount due, but in no case shall he sell any more land than shall be sufficient to raise such sum as shall be due; and the collector shall be entitled to demand and receive from each delinquent, whose property shall have been advertised as aforesaid, in addition to his compensation for collecting the taxes, a commission five per centum upon the amount raised, or to be raised by such sale, and when he shall sell real property, he shall receive two dollars for each deed of conveyance; Provided, that the person or persons whose lands may be sold for the taxes under this act shall have a right to redeem the same, at any time within one year after such sale shall have been made, by repaying to the purchaser the amount by him paid, together with interest thereon at the rate of one hundred per centum from the day of sale, until the money be paid; and provided also, that if the land of any person under age or insane be sold, the same shall be redeemed at any time within one year after such disability be removed, upon repaying the amount that the purchaser may have paid with the aforesaid interest until the time of redemption, and the collector shall in all cases upon receiving the amount of taxes due from any person or persons, specify in the receipt for the same, the property taxed and the total amount of tax received.

Taxes to have a preference.

Persons absconding.

Taxes to be a lien.

Sec. 17. Be it further enacted, That the taxes imposed by virtue of this act shall be preferred to all judgments, executions, incumbrances and securities whatsoever, and if any person between the time of rendering a list of his or her taxable property to the collector and the time to which he shall be authorised to make distress, shall be about to remove without the limits of his county, the collector, upon his receiving information thereof, shall immediately make distress of the good and chattels of the person so about to remove, sufficient to satisfy the amount of taxes that he or she may owe, and sell the same upon giving the notice hereinbefore mentioned in cases of goods and chattels; and all taxes assessed on any person or persons under this act shall be a lien upon his real property lying within the county in which the as-

essment was made, from the first of February of that year.

Sec. 18. *Be it further enacted*, That any collector of taxes, who shall sell any real estate to satisfy any tax imposed by lawful authority, shall execute to the purchaser or purchasers thereof, a deed of conveyance, which deed shall be good and effectual to vest in the purchaser or purchasers all the right, title, interest, claim and demand whatsoever, of the person from whom such taxes are due, which he or she had in and to such real estate, either in law or equity, and to deliver to him or them immediate possession thereof; and in every such deed, the collector making the same shall recite the consideration, and that the real estate thereby conveyed was sold for taxes; but no deed, executed in manner aforesaid, shall be recorded until the expiration of one year from the date thereof, but may nevertheless be proved, and if the person whose estate may have been sold and conveyed as aforesaid, or his or her heirs, executors or administrators, or his or her agent or Attorney shall, within the year, tender to the purchaser or purchasers, or his, her or their heirs, executors or administrators or his, her or their agent or Attorney, or in case of his, her or their absence from the Territory, then to the collector of the taxes who sold and conveyed such real estate, the consideration money paid for the same and the amount of all subsequent taxes that shall have been paid on such real estate, with interest on all such sums from the dates of such payment, at the rate mentioned in the sixteenth section of this act until such tender be made, then the deed executed for such real estate, thus sold and conveyed, shall be thereby vacated and made void and the deed given up.

Tax collector
to execute
deeds.

When to be
recorded.

To be vacated
on tender of
purchase mo-
ney &c.

Sec. 19. *Be it further enacted*, That in all cases where there shall be any property liable to taxation in any of the counties, and there shall be no owner or other person having charge of the same, it shall be the duty of the assessor to return the same from the best information that he can obtain, and such return shall be sufficient to authorise the collector to proceed to collect the taxes due on said property, in the manner specified in the foregoing section.

Derelict prop-
erty.

Sec. 20. *Be it further enacted*, That if the assessor of taxes in any county shall have omitted or neglected to assess the taxable property or any part thereof, of any person or persons within his county, it shall be the duty

In case of
omission to as-
sess any prop-
erty.

of such assessor and collector to certify the amount of tax which ought to have been assessed on such property, and the name or names of such person or persons owning the same to his successor in office, who shall assess the same with the tax of the succeeding year, in the same manner as if it had been assessed within the time limited by this act.

In case of persons remitting without paying taxes.

Sec. 21. *Be it further enacted,* That when any person or persons liable to pay taxes shall, after having been assessed, remove from the county in which he she or they may have been so assessed, not having paid his, her or their taxes, then and in such case the assessor and collector of the county in which he, she or they may have been assessed as aforesaid, shall and he is hereby required to send certified under his hand, a transcript from his tax list to the collector of the county where such delinquent or delinquents may be, and such collector is hereby authorised upon the receipt of said transcript to proceed to make the money by distress and sale or otherwise, and immediately transmit the amount so made to the collector who sent the same, for which service the collector making the said money shall receive the compensation allowed by law for similar services.

Special county court to examine insolvent list.

Sec. 22. *Be it further enacted,* That the county court in each and every county within the Territory shall on the first Monday in October in each year, hold at their respective county seats a special court for the purpose of examining the amount of insolvents that may be returned by the collector of their respective counties, and shall certify such allowance as to them may seem fair and just to the Territorial Treasurer, who shall allow the sum so certified to the collector in the settlement of his accounts; the said court shall also have power to grant relief to such persons as may have been improperly taxed or overtaxed, and upon certifying the same as in the case of insolvency, the Territorial Treasurer shall allow the same to the collector in the settlement of his accounts; and if any person to whom relief may be granted in the manner aforesaid shall not have paid the tax to the collector so improperly taxed or over charged, he, shall be exonerated from the same, and if he shall have paid the same, the collector shall refund to him the amount thereof; and it shall be lawful for said county court to make such allowance at any time, whether special or not.

May also grant relief in case of improper taxation.

Over charge to be refunded.

Sec. 23. *Be it further enacted,* That it shall be the duty of the collector of taxes in this Territory to pay the money by them collected into the Treasury of the Territory, on or before the first Monday of November in each and every year, and the assessor and collector shall receive for their services in assessing and collecting the taxes aforesaid, such compensation, not to exceed eight per centum, as a majority of the county court of his county may allow, the assessors compensation to be paid by the collector, and both to be allowed to him in the settlement of his accounts with the Territorial Treasurer.

Tax collector,
when to pay
over taxes col-
lected.

Compensation
of assessor and
collector.

Sec. 24. *Be it further enacted,* That if any collector of taxes as aforesaid shall fail to pay into the Territorial Treasury, all moneys which may be due from him as collector, on or before the day on which the same may become payable by law, the Treasurer, or such other person as he may appoint, shall forthwith move against such collector and prosecute his delinquencies to effect, and such delinquent collector shall not be allowed to receive any discount on the money that he stands charged with, unless the same shall be allowed by the Treasurer in the settlement of his accounts, and moreover shall pay two per centum per month on the same until the same is paid into the Treasury, interest as well as principal.

Remedy a-
gainst defaulting
tax collectors.

Sec. 25. *Be it further enacted,* That the several assessors and collectors of taxes heretofore appointed and which may hereafter be appointed shall be and they are hereby authorised and required, to finish the collection of all arrearages of taxes which had become due during their continuance in office, notwithstanding the time may have expired for which such assessor or collector were appointed, or they may at their discretion deliver a list of such arrearages to their successors in office, to be by them collected and accounted for to their respective predecessors.

Taxes to be
collected by
the officers, in
office at the
time they were
due.

Sec. 26. *Be it further enacted,* That if from any cause the office of assessor or collector of taxes shall become vacant in any county within this Territory, it shall be the duty of the Judge of the County court, without delay, to appoint a successor, who shall take the oath of office, enter into bond as herein before mentioned, and perform the same duties, and be subject to the same penalties this act provides for, and shall hold his office for the balance of that year.

Judge of coun-
ty court to ap-
point in case of
vacancy.

Sec. 27. *Be it further enacted,* That the county court

County tax to
be assessed by
county court.

How assessed,
collected and
paid over.

In case of fail-
ure by county
court, assess-
ment how or-
dered.

Repealing
clause

shall, between the first day of January and the first day of June in each and every year, at a special or regular term thereof, be and they are hereby authorised and required to levy a county tax, which shall be sufficient to discharge the demands on their respective counties, upon the same persons and species of property as are subject to a Territorial tax, according to the assessment of that year, but the tax so levied shall not exceed one half the amount of the Territorial tax, and the same shall be assessed and collected by the same persons in each county, at the same time and in the same manner, that the taxes of the Territory are assessed and collected, and shall be paid into the hands of the County Treasurer at the same time that the Territorial taxes are required to be paid into the hands of the Territorial Treasurer, and shall be in all respects under the same regulations and restrictions, which by law are provided for the due assessment, collection and payment of the Territorial tax; and the assessor and collector shall be allowed the same compensation for collecting the county tax as for the Territorial tax.

Sec. 28. *Be it further enacted*, That if the county court of any county shall fail to levy such county tax, prior to the first day of June in each year, it shall be the duty of the presiding Justice or Judge of said court to call a Court at the Court house of the county, on five days notice being given by the sheriff of said county, and the said court, so called, shall have power to levy the said county tax in the same manner as is directed in the preceding section.

Sec. 29. *Be it further enacted*, That all acts or parts of acts, so far as they relate to the raising a revenue for the Territory, and all other acts and parts of acts coming within the purview of this act, be and the same are hereby repealed.

Passed 20th, November 1828.

PETER ALBA,
President of the Legislative Council.
THOS. MUNROE, Clerk.

Approved November 22d, 1828.
WM. P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To provide for laying out the School Lands in this Territory.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That there shall be appointed by the Governor and Legislative Council three fit and discreet persons in each and every county in this Territory, to be called Trustees for the School Lands lying in the respective counties, who shall be vested with the powers and charged with the duties herein after mentioned; and shall, before they enter upon the duties of their respective offices, give bond payable to the Governor of this Territory and his successors in office, approved by the Judges of their county, in such sum as the said Judge shall require, with good and sufficient security, conditioned for the faithful performance of the duty imposed upon them by this act, which bond shall be recorded and filed in the clerk's office of the county where the same is taken, for safe keeping.

Trustees for
school lands to
be appointed.

Sec. 2. Be it further enacted, That the Trustees appointed as aforesaid shall hold their respective offices for one year from and after said appointments, but in all cases shall continue to exercise their respective functions until their successors are duly qualified into office, according to the provisions of this act.

Bond.

Condition
thereof.

Term of office.

Sec. 3. Be it further enacted, That said trustees shall have power to lease out such of the school lands lying within their respective counties, as they may deem expedient, at public auction to the highest bidder, and with a previous public notice of thirty days, given in one of the newspapers published in this Territory, of the time and place of such leasing, for any length of time not to exceed the period which we shall remain a Territory; and shall take bond and security, conditioned for the payment of the same yearly.

Trustees shall
lease outlands.

Time &c.

Sec. 4. Be it further enacted, That said trustees shall lease, from time to time, the aforesaid school lands in such parcels as they may deem best for the interest of that fund.

May do so
from time to
time.

Sec. 5. Be it further enacted, That said trustees shall collect the money due as aforesaid, and shall pay over all monies arising from the rent of the lands reserved for the use of seminaries of learning to the Territorial Treas-

Shall
Collect all mo-
nies.

Now appro-
priated.

Annual state-
ment.

To select place
for school
house.

Compensation
to Trustees.

surer, to be kept separate and apart by the said Treasurer from any other monies belonging to the Territory, until the same shall be otherwise provided for by law, and shall apply all the monies arising from the rents of the sixteenth sections in each township, towards the erection of school houses and the education of the children who shall reside in the township from which the rents accrue.

Sec. 6. Be it further enacted, That said trustees shall transmit a detailed statement of all their proceedings annually to the Legislative Council.

Sec. 7. Be it further enacted, That the said trustees shall select on each sixteenth section as aforesaid, a suitable number of acres in one body, not to exceed twenty, as they may think proper, for the erection of a school house, meeting house and other structures for the use and convenience of divine worship.

Sec. 8. Be it further enacted, That the said trustees shall be allowed to detain from the monies by them collected, five per centum, as a compensation for all the trouble and expense attending to such rent, and shall be allowed five per centum upon the amount of all monies secured by bond as aforesaid.

Passed 20th November 1828.

PETER ALBA.

President of the Legislative Council

THOS. MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Judges of
county court to
appoint place
and inspectors
of election.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Judges of the County courts of the respective counties be and they are hereby empowered and directed, to designate such places in their respective counties for holding an election for Delegate to Congress, as they may judge best suited to the convenience of the citizens; and they are further

AN ACT

An act to provide for holding an Election for Delegate to Congress from this Territory.

empowered and directed to appoint the inspectors of said election, any two of whom shall have power to act at such places as they may be appointed for, whose duty it shall be to receive and count the votes which may be given at such places ; and the said judges shall give public notice of the appointment of such places of holding the election and of the inspectors thereof, by an advertisement to be posted at the several places for holding such an election, at least six weeks previous to the day of election ; but if the judges, any or all of them, shall neglect to give notice of the election in their respective counties according to the provisions of this act, then the clerk of the county court for said county is hereby empowered and directed to give at least four weeks notice of said election and to appoint the inspectors and places of holding the same, according to the provisions of this act.

Notices

Judges failing to appoint.

Sec. 2. Be it further enacted, That before any votes are received, the inspectors shall appoint a clerk, and the said inspectors and clerk shall severally take an oath or affirmation in the following words, (to wit;) I. D. C. do solemnly swear or affirm (as the case may be,) that I will perform the duties of inspector of the election, (or clerk as the case may be,) according to law and to the best of my abilities, and that I will studiously endeavour to prevent fraud, deceit and abuses in conducting the same; which oath or affirmation shall be administered by a Judge or Justice of the Peace at the opening of the polls, but if no Judge or Justice of the Peace be present the inspectors of election are hereby authorised and empowered to administer the oath to each other, and to the clerk.

Clerks to be appointed.

Oath of inspector and clerk.

Sec. 3. Be it further enacted, That the election for delegate to Congress shall take place on the first Monday in May, eighteen hundred and twenty nine; and a like election shall take place every second year thereafter.

Time of election.

Sec. 4. Be it further enacted, That the votes shall be given by ballot at the time and place of holding the election ; and the polls shall be opened at eight o'clock in the morning and closed at six in the evening, when the votes shall be openly counted and declared by the inspectors.

Ballots.

Sec. 5. Be it further enacted, That when two or more ballots are put in the box folded as one ballot, neither of

Time of opening and closing polls.

Two ballots for same person.

the ballots so folded together shall be counted; and when any ballot contains the names of more than one candidate, the ballot containing such names shall not be counted.

Duty of the clerks.

Sec. 6. *Be it further enacted,* That it shall be the duty of the clerk, under the direction of the inspectors, to provide a poll book, in which the names of all the voters shall be registered as they hand in their ballots to the inspectors, whose duty it shall be to receive them and to declare in an audible voice to the clerk the name of the voter, after which if his vote be lawful, it shall be deposited in a ballot box, to be prepared by the inspectors of the election; and after the ballots are counted, to set down under the name of each individual who shall be voted for at such poll, the number of votes he has received, after which it shall be the duty of the inspectors and clerk to sign said poll book and deposit the same in the office of the clerk of the county court within twenty days after the said election.

Poll book.

Form of poll book.

Sec. 7. *Be it further enacted,* That the following shall be the form of the poll book, first, the name of the county and of the poll shall be written at the head of the book, the day of the month, date of the year; second, the names of the voters, the names of the different candidates, and at the close of the book shall be entered the number of votes each has received.

Sec. 8. *Be it further enacted,* That within ten days after the election, the inspectors of the same shall enclose and seal up under cover of three envelops, the certificate and return of said election, and deliver the same to the sheriff of the county, whose duty it shall be to forward the same to the Governor of the Territory by the first mail thereafter.

Returns of election to be forwarded to Governer.

Form of certificate.

Sec. 9. *Be it further enacted,* That the following shall be the form of the certificate that shall accompany the transcript from the poll book, which shall make the return complete; "we the subscribers inspectors of an election for Delegate to Congress held at _____ in the county of, _____ do hereby certify, that at the said election, held at the aforementioned place, A. B. and C. were candidates, and that there were given for A. B. the number of _____ votes and for C. the number of _____ votes

Signed,

Test

J. R. Clerk

D. C.

R. S.

Sec. 10. Be it further enacted, That the said inspectors shall receive as a compensation for their services and necessary expenses in conducting the election, the sum of two dollars each per day, and the clerks, the sum of three dollars each per day.

Compensation
of inspectors
and clerks.

Sec. 11. Be it further enacted, That it shall be the duty of the Governor, or person exercising the government for the time being, within two months after the time appointed for holding the election, to cast up and arrange the votes from the several counties, or such of them as may have been returned, for each person voted for as Delegate to Congress, and shall immediately thereafter issue his proclamation declaring the person having the highest number of votes to be duly elected as Delegate to represent this Territory in the Congress of the United States, and to grant a certificate thereof under the seal of the Territory to the person so elected.

Governor's
proclamation
of the election.

Sec. 12. Be it further enacted, That whenever two or more persons have an equal number of votes for delegate to Congress, and whenever a vacancy shall occur by death, resignation or expulsion of the delegate elected, it shall be the duty of the Governor to issue his proclamation to the several Judges and Clerks of the counties within this Territory, to cause another election to be held, conformably to the provisions of this act, and on such day as the Governor shall appoint.

In case of a tie
or vacancy.

Sec. 13. Be it further enacted, That if any candidate choose to contest the right of any person proclaimed duly elected to hold his seat in the House of Representatives, such person shall give notice thereof in writing to the person whose election he intends to contest, by leaving a notice thereof at the house where such person last resided, within fifty days after the Governor's proclamation notifying the result of the election, in which notice shall be expressed the points on which the same will be contested, and the names of the Justices of the Peace who will attend the taking of the depositions, and when and where they will attend to take the same ; Provided, that the time fixed upon for taking such depositions shall not exceed four months from the day of election ; and the said Justices shall have power and they are hereby authorised to issue subpoenas to all persons whose testimony may be required by either of the parties, commanding such person to appear and give testimony at the time and place therein mentioned, under the penalty of fifty

Contested
elections.

Notice.

Attendance of
witnesses.

dollars, to be levied upon each and every delinquent wh^o hath been duly served with process, and the said Justices shall hear and testify, under seal, all testimony relative to such contested election to the Speaker of the House of Representatives of the United States; Provided neverthe less, that no testimony shall be received which does not relate to the points expressed in the notice, a copy of which notice, attested by the person who delivered or served the same, shall be delivered to the said Justices.

Sec. 14. Be it further enacted, That all white male citizens of the United States above the age of twenty one years, who have resided in the Territory of Florida for the space of three months immediately preceding the day of election, and all white male inhabitants of the Territory above the age of twenty one years who were in the Territory at its session to the United States on the seventeenth of July eighteen hundred and twenty one, and who have resided in the Territory three months immediately preceding the day of election, shall be entitled to vote for delegate to Congress.

Sec. 15. Be it further enacted, That when objections shall be made to a person offering to vote and in all other cases where the qualifications of persons offering to vote, are unknown to either of the inspectors, they shall have power to examine such person on oath or affirmation touching his qualifications as a voter, agreeable to the qualifications in the preceding section, which oath or affirmation, either of the inspectors of election is hereby authorised to administer, and such person may further be required to declare on oath or affirmation, that he has not already voted at any other place of election, or has not been refused for want of due qualification as a voter.

Sec. 16. Be it further enacted, That if any inspector of the election, or clerk, or any other officer concerned in conducting the election shall neglect or improperly delay or refuse to perform any of the duties or services required by this act, having undertaken so to do, or shall knowingly admit any person to vote not qualified according to law, or shall be guilty of corruption, partiality or other misbehaviour in any matter or thing appearing to said election, or shall knowingly make a false return of votes given, he or they so offending shall forfeit and pay, each to the Territory, a sum not exceeding two hundred

**Qualification
of electors.**

**Objections to
vote, how
made.**

**Mal practices
of inspectors
and clerk.**

**How punish-
ed.**

dollars, nor less than fifty dollars, to be recovered in any court of record in the name and for the use of the Territory, in an action of debt with costs of suit, at the suit of any person who may sue for the same, one half to the use of the Territory, and the other half to the use of the person suing.

Sec. 17. *Be it further enacted*, That the Treasurer of the Territory is hereby authorised and required to pay and discharge out of any funds of the Territory, not otherwise appropriated, all demands incurred under and by virtue of this act; and that it shall be the duty of the inspectors of all future elections for Delegate to Congress, within two months thereafter, to cause to be made out a regular account against the Territory, naming the county, poll or place of election, signed by themselves and clerk, and cause the same to be transmitted to the Treasurer, which when paid shall be deemed and considered a voucher for the discharge of the same.

Sec. 18. *Be it further enacted*, That whenever hereafter it shall be necessary for any sheriff to travel more than ten miles to a post office, or other place, to transmit the returns of the election for Delegate to Congress in their counties, to the Governor of the Territory, he or they shall be allowed as a compensation therefor, four cents per mile, to be applied for and discharged in the same manner as is prescribed in the above section for inspectors and clerks of said election.

Passed 18th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Expenses of
election, how
paid.

Inspectors to
make out ac-
counts.

Compensation
to Sheriff for
carrying elec-
tion returns.

AN ACT

Concerning the election of members to the Legislative Council of the Territory of Florida.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the first and second districts shall be comprehended by the boundary lines of

Territory di-
vided into elec-
tion districts.

Escambia county, for which two representatives shall be elected, without regard to the dividing line of said districts or to the residence of the candidates; the third district, the boundary lines of Washington and Walton counties; the fourth and fifth districts shall be comprehended within the boundary lines of Jackson county, and qualified electors in said districts shall elect two representatives, without regard to the district line, or respect to the residence of the candidates; the sixth district, the boundary lines of Gadsden county; the seventh district, the boundary lines of Leon, Jefferson, Madison and Hamilton counties; the eighth district, the boundary lines of Alachua county; the ninth district, the boundary lines of Nassau county; the tenth district, all the county of Duval north and west of the St. Johns river; the eleventh district, all the county south and east of St. Johns river, within the boundaries of Duval and St. Johns counties, and north of the road thence to Buenavista; the twelfth election district shall comprehend and comprise all the county of St. Johns lying south of a line commencing at the northern boundary line of the city of St. Augustine, and running thence to the mouth of Six mile creek on the River St. Johns, together with the county of Musquito; the thirteenth district, the boundary line of Munroe county.

A member to each district.

Persons ineligible.

County court to appoint inspectors &c.

Sec. 2. *Be it further enacted*, That each of the said districts shall be entitled to one member of the said Council, who shall possess all the qualifications herein-after prescribed for a voter; and no person shall be eligible who shall not have resided in the district for which he shall be a candidate at least six months previously to the day of election, nor shall any person be eligible to said office who shall be District Attorney, Marshal or Sheriff, or shall hold any office by virtue of commission from the United States, except a Postmaster, and every vote given to any person holding any of the said offices or being under any of the disabilities herein mentioned shall be considered absolutely void and of no effect.

Sec. 3. *Be it further enacted*, That the county courts within the said districts respectively, be and they are hereby empowered and directed, at least thirty days before the day of election, to appoint such places for holding the same as the said courts may judge best suited to the convenience of the citizens, and for each place so appointed, they shall designate three inspectors of election,

any two of whom may be competent to discharge the duties ; and in case either of the county courts shall fail to appoint or designate the said places or inspectors, it shall be the duty of the clerk of such court to make such appointments and designation at least twenty five days before the day of election, and in either case, due notice thereof shall be given to the said inspectors of election and to the public at large.

Sec. 4. Be it further enacted, That it shall be the duty of said inspectors of election to appoint a clerk for their respective polls, and before the said inspectors and clerk enter upon their duties, they shall severally make oath or affirmation, before some justice of the peace, well and truly to perform the duties of their office according to law, without favor or affection ; and in case no justice of the peace shall be present, it shall be lawful and the said inspectors are hereby authorised to administer the oath to each other and to the clerk.

Sec. 5. Be it further enacted, That in conducting the election the said inspectors and clerk shall be governed by the following rules : They shall open the polls at nine o'clock in the morning and at the place appointed for the same, and they shall keep the polls open until six in the evening ; they shall take the votes by ballot and from such persons and none others as are duly qualified to vote, and when objections shall be made to a person offering to vote, and in all cases where the qualifications of the persons offering to vote are unknown, the said inspectors may examine such person on oath or affirmation touching the same, and should the person examined refuse to answer the interrogatories put to him, the said inspectors may refuse to receive the vote of the person so refusing, except as is provided for in the first section of this law.

Sec. 6. Be it further enacted, That when there shall be put in the box two or more ballots folded as one, they shall be destroyed and not counted ; and when any ballot shall contain the name of more than one candidate it shall also be destroyed and not counted.

Sec. 7. Be it further enacted, That the said judges of election shall cause to be written down the name of every person voting and a list of the names to be kept, and the said inspectors shall within ten days after the election cause to be made out a return of the same and to seal up and transmit the same return to the Governor ; and

Clerk to be appointed.

Oath of inspecto[r] and clerk.

Rules for the government of the election.

Two ballots for same person.

Return to be made to Gov-
ernor.

Form of certificate.

in the said return shall be transcribed a list of the names of all the voters, and also a list of the names of all the candidates voted for, and there shall also be contained in the said return, a certificate in the following form : We the subscribers, inspectors of election for the _____ district, for a member, or members as the case may be, of the Legislative Council, do hereby certify, that at the said election held at _____ in the said district, there were _____ voters, a list of whose names is hereunto annexed, and that there were _____ candidates voted for, and that of the said votes, there were given for A. B. the number of _____ votes. Signed by E. T.
G. H.

Inspectors of election.

Qualification of voters.

Sec 8. Be it further enacted, That all white male citizens of the United States, above the age of twenty one years who shall have resided within the limits of the district where they are about to vote, for the space of three months previous to the day of election, shall be entitled to vote for a member of the Legislative Council in such district and no person shall be allowed to vote out of the district in which he shall reside except as herein before provided.

Sec. 9. Be it further enacted, That if any person shall vote more than once at any such election, he shall upon conviction forfeit and pay for every such offence twenty dollars, to be recovered with costs before any Justice of the Peace, one half to the use of the county and the other half to the use of the person suing for the same.

Sec. 10. Be it further enacted, That if any person shall be guilty of taking a false oath or affirmation, either when interrogated as to his qualifications or when his testimony may be required in any contested election, or of procuring another to do so, shall upon conviction be liable to the same punishments as persons convicted of perjury are liable to by the laws of this Territory.

Sec. 11. Be it further enacted, That it shall be the duty of the Governor on the receipt of the said returns to proclaim in the most public paper of Tallahassee, the person who is duly elected in each district.

Sec. 12. Be it further enacted, That the proclamation so made shall be considered *prima facie* evidence of the election of the person so proclaimed ; but in all cases of a contested election or other questions of qualifications, the Legislative Council shall determine the same.

Taking false oaths, &c.

Governor to make proclamation of election.

Evidence of election. Contested elections

Sec. 13. Be it further enacted, That whenever two or more persons shall have an equal number of votes in any district, it shall be the duty of the Governor to order a new election in such district, at such time as he shall think proper, to be conducted according to the rules and provisions of this act; Provided however, that no new election shall be ordered if one of the persons having an equal number of votes shall have given notice that he intends to contest the said election according to the regulations prescribed by this act.

In case of tie,
&c. new-elect.

Sec. 14. Be it further enacted, That any person intending to contest the election of one returned to serve as a member of the Legislative Council, such person shall, within thirty days after the election, give to the person returned and whose election he shall intend to contest, a written notice stating the particular facts upon which the same will be contested, and the name of the Justice of the Peace or Notary Public before whom the depositions will be taken; and also shall give the party reasonable notice of the time and place of taking such depositions; Provided, that no deposition shall be taken after the second Monday of the Session of the Legislative Council, and the said Justice shall issue his subpoena for such persons as may be required by either of the parties to give testimony, and any person refusing to appear and give testimony when subpoenaed for that purpose, he shall be fined by the Magistrate or Notary Public issuing such subpoena in the sum of fifty dollars and execution may issue therefor; and the said Justice or Notary Public shall take all testimony relative to such contested election, and shall seal up and transmit the same to the President of the Legislative Council.

Election, how
contested.

Sec. 15. Be it further enacted, That for the purposes of said election, the county court of Walton county shall exercise jurisdiction in the third district; and the county court of Duval county shall exercise jurisdiction in the eleventh district, provided, that appointments shall not have been made by a county court in the same.

Jurisdiction of
Walton and
Duval county
courts.

Sec. 16. Be it further enacted, That the said election shall be held on the first Monday in June next.

Time of elec-
tion.

Sec. 17. Be it further enacted, That it shall be the duty of the Secretary of the Territory to report to the next Legislative Council a correct copy of the different returns of the elections held as aforesaid in each district in the Territory in order to enable the said Council to

Secretary to
report copy of
election re-
turns to next
Council.

divide the Territory into thirteen election districts according to the act of Congress passed at its last session.

Passed 20th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Rejected by the Governor and passed by the requisite majority of the Council.

November 22d, 1828.

AN ACT

To establish and incorporate a medical board in and for the Territory of Florida.

Medical Board
incorporated.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Richard Weightman, William H. Simmons and Alfred Guthrie of St. Augustine city, Robert A. Lacy and Waterhouse of the Island of Key West, William D. Price, Lewis Willis and Thomas Munroe of the City of Tallahassee, Malcolm Nicholson and John T. J. Wilson of the county of Gadsden, William P. Hort, John Porter Lockhart and Harris B. Crews of the county of Jackson, and C. Y. Fonda and John Brosnahan of the City of Pensacola, and their successors in office, be and they are hereby declared to be a body politic and corporate, by the name and style of the Medical Board of the Territory of Florida, and as such shall be capable and liable in law to sue and be sued, plead and be impleaded, and shall be authorised to make such bye laws and regulations as may be necessary for the government of said Board; Provided that such bye laws are not repugnant to the laws of the United States and of this Territory, and for that purpose, may have and use a common seal, appoint their chairman and such other officers as they may think proper, and remove the same from office for improper conduct.

Name.

Bye-laws.

Annual ses-
sions.

Quorum.

Sec. 2. Be it further enacted, That said Board shall sit annually in the City of Tallahassee, commencing its session on the third Monday of October in each year, and shall continue in session as long as their business may require; that any three members of said Board shall form a quorum for the transaction of business.

Sec. 3. Be it further enacted, That the said Board shall examine all applicants who may hereafter wish to obtain a license to practice medicine in this Territory; and if upon examination, the applicant be found qualified and of good moral character, it shall be the duty of said Board to grant a license to such applicant under their seal; Provided, that in no case shall it be necessary to examine any applicant who may be a graduate of some regularly established medical University within the United States, but the production of the diploma of such applicant and a certificate of moral character, shall in all instances entitle him to a license from said Board to practice within this Territory.

Shall examining applicants.

And, grant license.

Graduates of Medical University.

Sec. 4. Be it further enacted, That such individual member of said board shall have the right to examine any applicant when the said Board is not sitting, and grant such applicant (if qualified) a license to practice, which license shall remain in full force until the next regular session of the Medical Board; and it shall be the duty of such applicant to return said license to the said Board at its next session, and apply for a general license which shall be granted him, if upon examination, the Board shall be satisfied that he is properly qualified to practice as a Physician.

Temporary license, how granted.

Sec. 5. Be it further enacted, That every applicant obtaining a license from the Medical Board shall pay the sum of ten dollars, to be appropriated as said Board may order and direct.

Fee for license.

Sec. 6. Be it further enacted, That if any person, other than those herein appointed members of said Board, shall from and after the first day of March next attempt to practice as a Physician, contrary to the provisions of this act, within this Territory, without obtaining a license as aforesaid, such person shall for every such offence forfeit the sum of five hundred dollars, to be recovered in any court of law having jurisdiction of the same, one half to the use of the person suing for the same, and the other half to the use of the county in which he shall attempt to practice; Provided, that nothing in this act shall be so construed as to require any persons who were licensed to practice medicine under any former law of this Territory to obtain license, by this act required, anew.

Practising without license.

How punished.

Proviso.

Sec. 7. Be it further enacted, That the members of said Board shall have the right to fill all vacancies which

Vacancies in board, how filled.

may occur therein, in such manner as they in their bye laws may direct.

Passed 18th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 21st. 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

To establish a Ferry over the river Wakulla at or near St. Marks.

Samuel Crosby authorised to establish a ferry on the Wakulla.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Samuel Crosby be and he is hereby vested with the right and power of establishing a ferry, and charged with the duty of keeping the same in repair, across the Wakulla river at or near Fort St. Marks, and the said Crosby shall continue in the enjoyment of the right to keep said ferry during the term of fifteen years: Provided, he the said Crosby shall keep the said ferry in good repair for the safe crossing of such vehicles as travel the road.

Sec. 2. Be it further enacted, That it shall not be lawful for any other person to establish or keep a ferry within two miles of said ferry on the Wakulla river, except it be for his or own use and not for the purpose of gathering toll, and said Crosby shall be entitled to receive the same rate of toll allowed by law at the ferries or bridges on the river Ocklocknee.

No other ferry within two miles.

Passed 11th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 12th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To establish the county site of Alachua county.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the passage of this act, the county site of Alachua county shall be and the same is hereby established at a place in said county usually called and known, as the Court-house head, eight miles south east of the Natural Bridge on the Santa Fe river, and on the United States road known as Bellamy's road.

Sec. 2. Be it further enacted, That said county site shall hereafter be called and known by the name of Newnansville.

Passed 10th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved Norember 15th, 1828.

WILLIAM P. DUVAL,

Governor of the Territory of Florida.

County site
of Alachua
county estab-
lished.

To be called
Newnanville.

AN ACT

To amend an act concerning Roads, Highways and Ferries.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That when any person or persons shall desire to have established a neighbourhood or private road, to be laid out to communicate with a public road or highway, such person or persons shall make application to the nearest or most convenient Justice of the Peace, who shall thereupon give notice to the persons most interested in the application; and appoint three disinterested persons to survey and inspect the ground of the contemplated road.

Private roads
how laid out.

Sec. 2. Be it further enacted, That if the three persons above appointed shall report that the road applied for will be convenient for neighbourhood purposes, and that the contemplated route is the best that can be selected, then and in that case, the said Justice shall authorise and ap-

Order of Jus-
tice or survey.

point the said three persons to lay out and make the road applied for, which shall constitute a neighbourhood road.

Passing over private property, compensation for how determined.

Sec. 3. Be it further enacted, That if the said road shall pass through either in part or in whole, the lands of any individual, who shall object to the laying out of the said road, the Justice of the Peace aforesaid shall summon a Jury of six disinterested persons to value the land aforesaid, which shall be paid for by the persons who shall use said road.

Appeal to county court.

Sec. 4. Be it further enacted, That if the person who shall own the land or who shall apply for the road shall be dissatisfied with the verdict of the Jury, or the return of the three commissioners, he may take an appeal to the county court of the county where the lands lie.

Passed 20th, November 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved, November 22d 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

Authorising the Governor to appoint a Clerk for the Executive Department of this Territory.

Clerk to the Executive department.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the Governor be and he is hereby authorised and empowered to appoint a clerk, to perform all such duties as may be required of him by the Executive Department of this Territory.

Term of office and compensation.

Sec. 2. Be it further enacted, That the clerk so appointed shall continue in office during the pleasure of the Governor, and receive as a compensation for his services at the rate of four hundred dollars per annum, to be paid out of the Treasury of this Territory, on an order from the Governor.

Passed 23d November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 23d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

For the Relief of Ambrose Crane.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Ambrose Crane be and he is hereby authorised and empowered to make any deed of conveyance or other transfer of any property, real or personal, belonging to or in any wise held at this time by his son A. P. W. Crane, and the same shall be valid in law and Equity.

Passed November 22d, 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Authorised to
make certain
transfers.

AN ACT

To admit George Walker to practice as an Attorney and Counsellor at Law.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That George Walker of Tallahassee be, and he is hereby admitted to plead and practice as an Attorney and Counsellor, in the several courts of law and equity of this Territory.

Passed 20th November 1828.

PETER ALBA.

President of the Legislative Council

THOS. MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Geo. Walker.
admitted to
practice law.

AN ACT

To authorise the laying out a road from the Appalachia-
cola River to Marianna.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Jeremiah Loftin, Ben-

Commissi
ers appointed

jamin Foscue, Benjamin F. Gerry, John McComac and John G. Smith shall be and they are hereby appointed Commissioners to lay out and establish a road, to lead from Armistead's Ferry on the Appalachacola River to the town of Marianna.

Duty of commissioners.

Judge of county court to appoint overseer.

Duty of overseer.

Persons not liable to work said road.

Persons failing to work on road.

Sec. 2. *Be it further enacted,* That the said commissioners or a majority of them shall ascertain and make out the nearest and best way for the said roads, and apportion the hands subject to work on the same according to this act, and shall notify the Judge of the county court of Jackson county on or before the first Monday in January next, whereupon it shall be the duty of the said Judge to appoint an overseer, whose duty it shall be to cut out and open the said road in the same manner and under the same regulations as is provided for the opening and clearing out the roads generally by the Laws of this Territory.

Sec. 3. *Be it further enacted,* That the said overseer shall call at the clerk's office and get a list of the names of the persons apportioned by the said commissioners, and shall notify each and every one of them, when and where they shall meet to work on said road, and also the number of days that they will be required to work; Provided, that nothing in this act shall be so construed as to compel any person to work on the said road, who shall reside at the distance of five miles from the place at which they are required to commence their work; and provided also, that no person shall be compelled to work for a longer time than five days at any one time, nor more than fifteen days in any one year.

Sec. 4. *And be it further enacted,* That the hands failing to work on the said Roads shall be subject to the same fines and penalties that are provided in other cases of defaulters for not working on roads by the laws of this Territory, and that this act shall be in force from its passage.

Passed November 17th, 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL.
Governor of the Territory of Florida.

AN ACT

To incorporate the Bank of Florida.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That a Bank of Florida shall be established at Tallahassee, the capital stock whereof shall not exceed five hundred thousand dollars, and shall be divided into shares of one hundred dollars each; and the subscriptions towards constituting the said stock shall, on the first Monday of March next, be opened at Tallahassee for one thousand nine hundred shares, at Pensacola for one thousand shares, at St. Augustine for one thousand shares, and at Marianna for one thousand shares, under the superintendance of, at Tallahassee, Benjamin Chaires, Hector W. Braden, Turbut R. Betton, John Gamble, James Gadsden, John P. Duval, Richard Hayward, Robert W. Williams, Jonathan Robinson, John Y. Garey, John Bellamy and Edward Loockerman; at Pensacola, of Benjamin D. Wright, F. H. Nisbett, Sylvester Bill, Joseph C. Keyser, Noah H. Allen, Horace L. Higley, Pablo Palmer, John Jerri-son jr. Micajah Crupper, John De La Rue, John B. Foster and David C. Pinkham; at St. Augustine, of William H. Simmons, Joseph M. Hernandez, Antonio Alvarez, John M. Fontane, Emanuel W. Ormand, Thomas Dummet, Antelm Gay, Antonio J. Triay, Charles Robi-on, Francis Gue, Thomas Murphy and Jame P. Cotter; and at Marianna of Addison Mandell, Henry L. Reviere, Arthur Foster, Isaac Fort, George C. Hodges, Bennet Ferrell, Charles Howard, John Porter Lockhart, George Poythress, Joshua Scurlock, Peter W. Gautier sen'r. and Miles Simms, and a majority of said commissioners at the places above mentioned respectively shall be sufficient to perform the duties of their appointment, and they shall keep the subscription open until the number of shares at the places above mentioned respectively shall be subscribed for, and no longer.

Sec. 2. *Be it further enacted,* That all the sub-scrip-tions and the shares obtained in consequence thereof shall be deemed and held to be for the sole and exclusive use and benefit of the persons, copartnerships or bodies politie respectively subscribing, or in whose behalf the sub-scriptions respectively shall be declared to be made at the time of making the same; and all bargains, contracts, promises and engagement in any wise contravening this

Bank estab-
lished.

Capital stock.

Subscription to
be opened for
shares.

Commission-
ers at Tall-
assee.

At Pensacola.

At St. Augus-
tine.

At Marianna.

Subscriptions
to be for use of
person sub-
scribing.

provision shall be void, and the persons, copartnerships or bodies politic respectively so subscribing, or for whose use said subscriptions shall be declared to be made as aforesaid, shall have, enjoy and receive the share or shares respectively obtained in consequence thereof, and all the interest and emoluments thence arising, as fully, freely and absolutely as if they had respectively paid the consideration therefor, any such bargains, contracts or engagements to the contrary notwithstanding: Provided however, that no subscription shall be received in Tallahassee during the ten first days appointed for receiving the same, except in the name of some person or persons residing in the said City or in some part of the Territory, other than the towns herein before mentioned as places for opening subscriptions, and so with respect to Pensacola, St. Augustine and Marianna, thereby rendering the inhabitants of all of said towns unable for the first ten days to subscribe in any town than that in which they may reside, or to have subscriptions made in their names or for their use.

- Subscriptions,** for first ten days, to be in name of resident of place, where same shall be opened.
- Incorporated.** Sec. 3. Be it further enacted, That the subscribers to the said Bank, their successors and assigns shall be and they are hereby created and made a corporation and body politic in law and in fact, by the name and style of the President, Directors and company of the Bank of Florida, and shall so continue until the first day of March one thousand eight hundred and forty two, and no longer; and by the name and style aforesaid, they shall be and are hereby made able and capable in law to have, purchase, receive, possess, enjoy and retain to themselves and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects to an amount not exceeding in the whole five hundred thousand dollars, including the amount of the capital stock aforesaid, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution such bye-laws, ordinances and regulations as shall seem necessary and convenient for the government of the said corporation, not being contrary to the laws of this Territory or of the U. States, and generally to do and execute all acts, matters and
- Name and style.**
- Powers.**
- Bye-laws.**

things which a corporation or body politic in law, may or can lawfully do, and execute, subject to the rules, regulations, restrictions, limitations and provisions hereinafter prescribed and declared.

Sec. 4. Be it further enacted, That the amount of the share or shares subscribed for, except in the case of the Territory, shall be paid by the respective subscribers in gold, silver or notes of the United States Bank, one fourth thereof at the time of subscribing, one fourth within sixty days after the Bank shall go into operation, one fourth within one hundred and twenty days, and one fourth within six months, to the Bank directors for the time being : Provided always, that it shall be lawful for any subscriber to pay the whole of his subscription money or any greater part than is hereby required, before the time above limited for the payment of the same, and each and every subscriber so paying in advance shall have a discount of one per centum per annum on such advance.

Sec. 5. Be it further enacted, That for the well ordering the affairs of the said corporation there shall be twelve directors, being citizens of this Territory, six of whom shall be elected annually by the stock-holders at a general meeting to be held at Tallahassee on the first day of the session of the Legislative Council, and the Governor or by and with the consent of the Legislative Council shall at the same time appoint six directors on the part of the Territory, one of whom shall at the same time be appointed by the Governor with the consent of the Legislative Council, President of the board of Directors, who shall not only be entitled to vote as a director, but shall also as President give the casting vote in the event of an equal division of the votes of the directors ; at the same time and place there shall be appointed and chosen in the same manner and under the same rules and regulations, a President and twelve directors of the office of discount and deposit at Pensacola, and a President and twelve directors of the office of discount and deposit at St. Augustine, and a President and twelve directors of the office of discount and deposit at Marianna ; Provided, that in case it should at any time happen that an appointment of a President and directors and an election of directors should not be made upon any day, when pursuant to this act, it ought to have been made, the said corporation in that case shall not be deemed to be dissolved, but it shall be lawful on any other day to make

Subscription,
how paid in.

Directors, 12,
appointed

For offices of
discount and
deposit.

In case of fail-
ure to elect di-
rectors on part
of stockhold-
ers.

the appointments of President and directors, and to hold an election for directors ; and it shall be the duty of the President in the event of a failure to elect the directors on the part of the stockholders, to give notice thereof, by publication in all the papers printed at Tallahassee, and to call a meeting of the stock holders within one month from the date of the publication, to be helden in the City of Tallahassee for the purpose of electing their directors, and in the event of a second failure by the stockholders to elect their directors, they shall be elected by the remainder of the board of directors, and shall remain in office until the stockholders at their regular meeting shall make their elections ; and that in case of the death, resignation, inability or absence from the Territory of a director, his place shall be filled up for the remainder of the year by a new appointment, if he be a director on the part of the Territory, or, by a majority of the board of directors at the place where such vacancy shall happen, if he be a director for the stockholders : Provided, that every person voting for directors shall previous to giving his vote make oath or solemnly affirm, that the share or shares in right whereof he offers to vote is or are really and *bona fide* his own property, and not held in trust or for the use, benefit or emolument of any other person or persons, nor in pursuance of any contrivance or design to obtain for himself or any other person a greater number of votes than he or they are fairly entitled to, according to his or their true interest in the Bank, in conformity with the provisions established by this act; and where any person offers to vote by proxy, an affidavit to the same effect of the person whom he represents, shall be sufficient ; to take any such oath or affirmation falsely shall be perjury.

Sec. 6. Be it further enacted, That on the first day of April next and every thirty days thereafter, if the subscriptions be not sooner closed, the commissioners appointed at Pensacola, St. Augustine and Marianna shall transmit and deliver to the commissioners appointed in the City of Tallahassee, a list of the several subscribers at such places respectively, and of the share or shares to each and every subscriber belonging, together with the full amount of the subscription money by the commissioners respectively received as aforesaid ; for which amount the receipt in writing of the commissioners appointed in and for the city of Tallahassee, or of a majority of them,

Qualification
of stockholder
to entitle him
to vote.

Proxy

Money receiv-
ed in branches,
to be paid to
master bank.

shall be a sufficient acquittance and discharge to the persons respectively paying the same; and as soon as the sum of forty thousand dollars, in the manner aforesaid shall be received on account of the subscription to the said capital stock of the said Bank, notice thereof shall be given by the commissioners appointed in and for the City of Tallahassee, and the said commissioners shall be the first Directors, and the first named commissioner the President, and shall be capable of serving until the second week of the following session of the Legislative Council, or until their successors shall be duly appointed and elected; and the said President and Directors shall forthwith thereafter commence the operations of the said Bank at the City of Tallahassee and for that purpose shall provide a house for the carrying on the business of the said Bank, together with all necessary paper, stationary, vaults and utensils suitable to the same, so that the operations of the Bank may be immediately prosecuted and carried into effect.

Bank, when to go into operation.

Sec. 7. Be it further enacted, That the Directors for the time being shall have the power to appoint such officers, clerks and servants under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively as shall be reasonable, and shall be capable of exercising all such powers and authorities for the well governing of the affairs of the said corporation, as shall be prescribed by the laws, ordinances and regulations of the same.

Officers of the bank.

Sec. 8. Be it further enacted, That the following rules, restrictions, limitations and provisions shall form and be fundamental articles of the constitution of the said corporation.

Rules for government of bank.

1st. The number of votes to which each stockholder shall be entitled, shall be equal to the number of shares he shall hold; Provided, that no share or shares shall confer a right of suffrage which shall not have been held en two calendar months previous to the day of election; all stockholders may vote in elections by proxy, provided, the proxy be derived directly from such stockholder and voted on by a person being a citizen of the Territory.

Votes.

2nd. None but a stockholder, being a citizen of the Territory, shall be entitled by the stockholders as a director; no director of any other bank shall at the same time be a director of this bank nor shall the Governor,

Directors.

Persons ineligible.

any member of the Legislative Council, Treasurer, Judges of the Superior courts, United States Attorney or any person holding and exercising an office of trust or profit under the United States, be a director of this bank.

3rd. No director shall be entitled to any emolument. The directors shall allow the President such compensation for his services as shall appear to them reasonable.

4th. No less than eight directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director whom he, by writing, shall nominate for that purpose.

5th Every Cashier before he enters on the duties of his office shall give bond, with two or more securities to the satisfaction of the directors, in a sum not less than fifty thousand dollars, with condition for his good behaviour.

6th. The lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, and such as shall be *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

7th. The total amount of notes emitted or thrown into circulation by the said corporation, together with their debts of every description, shall not at any time exceed the sum of four hundred thousand dollars, over and above the monies then actually deposited in the bank for safe keeping; in case of excess, the directors, under whose administration it shall happen, shall be liable for the same in their natural private capacities, and an action of debt may in such case be brought against them or any of them, or their heirs, executors or administrators in any court of record, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding, but this shall not be construed to exempt the said corporation or the lands, tenements, goods or chattels of the same from being also liable for and chargeable with, the said excess, such of the directors

Quorum of directors.

Cashier, to give bond &c.

Lands &c. which bank may hold.

Amount of notes which bank may issue.

In case of excess.

who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact and of their absence or dissent to the Governor of the Territory.

8th. The said corporation shall not be at liberty to purchase any public stock whatever, except their own bank stock ; Provided, that the number of shares they purchase in again shall be sold out at par, or above it as the market price may be, whenever opportunity offers to do so with convenience ; and provided the number of shares so purchased in shall not exceed one hundred and fifty shares ; nor shall this corporation, directly or indirectly, deal in or trade in any thing except bills of exchange, gold and silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods which shall be the produce of its lands ; neither shall the said corporation take more than at the rate of one per centum for forty five days, for or on account of its loans or discounts.

9th. No loan shall be made by the said corporation to any government or state, to any amount whatsoever, unless previously authorised by a law of this Territory.

10th. The stock of the said corporation shall be assignable and transferable according to such rules and regulations as shall be prescribed by the laws and ordinances of the same.

11th. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon under the hand or hands of such person or persons, and of his, her or their assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names ; and bills or notes which may be issued by order of the said corporation, signed by the President and countersigned by the Cashier thereof, promising the payment of money to any person or persons, his, her or their order, or to the bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same in like manner and with the like force and effect as upon any private person or persons, if issued by him or them in his, her or their private or natural ca-

Bank shall not purchase stock except their own.

Articles which bank may decline.

Rate of interest.

Loans.

Stock transferable.

Bills &c. under seal transferable by endorsement.

Bills payable to bearer.

Notes discounted considered as bills of exchange.

Capacity or capacities, and shall be assignable and negotiable in like manner as if they were issued by such private person, that is to say, those which shall be made payable to any person or persons, his, her or their order shall be assignable by endorsement in the like manner and with the like effect as foreign bills of exchange now are, and those which are payable to the bearer shall be negotiable or assignable by delivery only; and all notes or bills at any time discounted by the said corporation, and all notes made negotiable and payable at the Bank of Florida, or any of its offices, shall be placed on the footing of foreign bills of exchange, so that the like remedy may be had for the recovery thereof against the drawer or drawers, endorser or endorsers and with the like effect, except so far as relates to damages, any law, usage or custom to the contrary notwithstanding.

Dividends.

12th. Half yearly dividends shall be made of so much of the profits of the bank as shall appear to the directors advisable; If there shall be a failure in the payment of any part of any sum subscribed by any person, copartnership or body politic, the party failing shall forfeit the first payments made to the bank with any dividend which may have accrued prior to the time of making the second, third or fourth payment, as the case may be, during the delay of the same.

Offices of discount and deposit.

13th. The directors aforesaid shall establish offices at Pensacola, St. Augustine and Marianna for the purpose of discount and deposit only, when one half of the capital stock of the bank shall be paid in, upon the same terms and in the same manner as shall be practised at the bank, and to commit the management of the said offices and making the said discounts to the directors of the several places aforesaid, under such directions and subject to such regulations of the directors of the bank of Florida as they shall deem proper, not being contrary to law or the constitution of the bank.

Annual statement to be made to Governor and Council.

14th. The Governor and Legislative Council shall be furnished annually on the first day of the session of the Legislative Council with statements of the amount of the capital stock of the said corporation, and of the debts due the same, of the monies deposited therein, of the notes in circulation, and of the cash on hand, and shall have the right to inspect such general accounts in the books of the bank as shall relate to the said statement; Provided that this shall not be construed to imply the right of

inspecting the accounts of any private individual or individuals or any body politic or corporate with the bank.

15th. The directors shall keep fair and regular entries in a book to be provided for that purpose of their proceedings, and on any question when one director shall require it, the yeas and nays of the directors voting shall be duly inserted on their minutes, and those minutes be at all times on demand produced to the Governor or Legislative Council or any committee of the Council who shall be authorised to require the same.

16th. No President or Cashier of this Bank shall be directly or indirectly concerned in the purchase or sale of any of the public stocks or funds, under the penalty of ten thousand dollars, to be forfeited, one half thereof to the use of the Territory, and the other half thereof to the use of the informer.

Sec. 9. *Be it further enacted,* That if the said corporation or any person or persons for the use the same shall deal or trade in buying or selling goods or merchandize, commodities whatever, contrary to the provisions of this act, all and every person or persons who shall have given any order or direction for so dealing or trading and all and every person or persons who shall have been concerned as parties or agents therein shall forfeit and loose treble the value of the goods, wares, merchandize or commodities in which such dealing and trade shall have been, one half thereof to the use of the informer, to be recovered with costs of suit.

Sec. 10. *Be it further enacted,* That the bills and notes of the said corporation, originally made payable or which shall have become payable, on demand in gold or silver or notes of the United States bank, shall be recoverable in all payments to the Territory of Florida, and the public monies of the Territory shall be constantly deposited in the Bank of Florida when lying inactive.

Sec. 11. *Be it further enacted,* That within the term one month after information given by the proper commissioners at the City of Tallahassee, that forty thousand dollars have been received from the subscribers, the Executive shall on behalf and for the use of the Territory make, or cause to be made, a subscription to the capital stock of the said bank, to the amount of ten thousand dollars.

Sec. 12. *Be it further enacted,* That the said president

Minutes of
proceedings of
directors.

President and
Cashier pur-
chasing stock.

Penalty for
trading in mer-
chandise.

Bills to be
received in
payment of
public debts

Stock to be
subscribed for
by the Terri-
tory.

Notes, denomina-
tion of

and directors shall not in any case issue any note for a smaller sum than one dollar.

Negotiable pa-
per.

Sec. 13. *And be it further enacted,* That no note shall be negotiable at the Bank unless it be so expressed on the face of said note.

Passed November 19th, 1828.

PETER ALBA.
President of the Legislative Council.

THOMAS MUNROE, Clerk.

November 23rd, 1828, rejected by the Governor and passed by the requisite majority of the Council.

AN ACT

To establish a ferry across the Chactawhatchie river at or near Pitmans ferry.

Pitmans' ferry
established.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Isaac Pitman sen'r. be, and he is hereby vested with the right of establishing a ferry across the river Chactawhatchie, at or near the place known by the name of Pitmans ferry, and he is hereby vested with all and singular the immunities and privileges belonging to the same, for and during the term of fifteen years from and after the passage of this act: Provided, he shall continue to keep the same in repair.

Toll.

Sec. 2. *Be it further enacted,* That it shall be the duty of said Isaac Pitman sen'r. his heirs or assigns to keep in good repair, a flat boat of sufficient dimensions to transport across said river a loaded waggon and team, and he shall be entitled to receive at the said ferry, toll at such rates, and shall be subject to such regulations, as may be established by the county court of the county of Washington, and the Legislative acts of the Territory.

Exclusive
right granted.

Sec. 3. *Be it further enacted,* That it shall not be lawful for any other person to establish or keep a ferry on said river within five miles of the ferry herein established, unless the same be for his, her or their own exclusive

use, and not for the purpose of receiving toll upon roads laid out by order of the United States.

Passed 4th November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 12th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.



AN ACT

To legalize and make valid certain records in the county of Monroe, and for other purposes..

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all writings which by law are directed to be recorded, and which have been recorded in the county of Monroe in the book provided for that purpose, whether the same have been entered on the said book by the clerk of the county court, or any person pretending to act as such, shall be binding on the parties from from the date of their record, and have the same force and effect in law, as if the same had been recorded by the clerk legally authorised : Provided, that the originals, or legally authenticated copies of the originals, of all such writing be submitted within six months to the clerk of the county court of Monroe, and by him certified, as having been duly proved and copied.

Certain re-
cords in Mon-
roe county
made valid.

Passed 15th November 1828.

PETER ALBA.

President of the Legislative Council

THOS. MUNROE, Clerk.

Approved November 20th, 1818.

WM. P. DUVAL,

Governor of the Territory of Florida.

Proviso

AN ACT

To dissolve the marriage contract between Sarah P. Beeler and Thomas Beeler.

Preamble.

Whereas it has been satisfactorily proved to this Legislative Council, that Thomas Beeler formerly a resident of Escambia county in the Territory of Florida has for last three years withdrawn his support and protection from, and has entirely deserted his lawful wife Sarah P. Beeler, who before her marriage with the said Thomas Beeler was named Sarah P. Floyd; and that the said Thomas Beeler has been convicted of a crime of an infamous character and has suffered imprisonment in the State Prison of Louisiana, and has actually intermarried with another woman; and whereas the said Sarah P. Beeler has petitioned to be divorced from her aforesaid husband; Therefore, for the relief of the said Sarah P. Beeler,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage contract of the said Thomas Beeler and Sarah P. Beeler, formerly Sarah P. Floyd, be and the same is hereby dissolved and annulled, and the said Thomas Beeler and Sarah P. Beeler, formerly Sarah P. Floyd, are hereby absolutely divorced from the bonds of matrimony, as fully, absolutely and entirely as if they, the said Thomas Beeler and Sarah P. Beeler, formerly Sarah P. Floyd, had never been married.

Passed 23d, October 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE,^{*} Clerk.

Approved, October 24th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Thomas Beeler and Sarah P. Beeler divorced.

AN ACT

To divorce Mahala Watkins formerly Mahala Hall from her husband John R. Watkins.

Whereas it is satisfactorily proven to this Legislative Council that Mahala Watkins formerly Mahala Hall, shewed good cause for a divorce from her husband John R. Watkins; now for remedy in the premises

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the marriage contract heretofore entered into and solemnized between Mahala Watkins, formerly Mahala Hall, and John R. Watkins be and the same is hereby dissolved, and the said Mahala Watkins is hereby restored to all the rights, privileges and immunities of a *fem sole*.

Sec. 2. *Be it further enacted,* That the said Mahala Watkins shall, from and after the passage of this act, be called and known by her maiden name of Mahala Hall.

Passed 22d November, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Preamble:

Mahala Watkins divorced.

To be called by her maiden name.

AN ACT

To divorce Mary Carter from the bed and board of her husband William Carter.

Whereas it satisfactorily appears to this present Legislative Council, by proper testimony in the case submitted, that some time in the year of our Lord, one thousand eight hundred and sixteen, William Carter was married to Mary Gibbon, and since that time up to the present period, the conduct of the said Mary has always been kind, faithful and affectionate, but that for many years past the conduct of the said William has been cruel harsh, unnatural and often threatening the life of said Mary; that he has become a complete slave to the vice of intemperance, and some five or six

Preamble.

months since, separated her and her children, against her will and inclination, from the protection of her father and friends: And whereas it further appears that the life of the said Mary will be endangered by a continuance with the said William, and the morals of her six small children are liable to be corrupted and their lives endangered; now in consideration of the premises,

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Mary Carter, formerly Mary Gibbon, be divorced from the bed and board of William Carter, and the marriage of the said William and Mary be so far dissolved.

Divorced a
mensa et thoro.

Alimony al-
lowed wife.

Guardian for
children.

Sec. 2. *Be it further enacted, That the personal property of the said William and Mary Carter now in the possession of the said Mary Carter, shall constitute her alimony and shall continue her separate property; and the said Mary Carter is hereby appointed sole guardian of the persons and estate of the infant children, born of the marriage between the said William and Mary.*

Passed 22d November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 22d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT To Divorce John Van Pelt.

Preamble.

Whereas, it has been satisfactorily shewn to the present Legislative Council by competent and sufficient evidence, that Mary or Poll Van Pelt, formerly Pigg has since her intermarriage with John Van Pelt of Jackson County in this Territory, been in the habit of prostituting her person to the embraces of other men, and that she some time since entirely abandoned his bed and board, and now lives with another individual, and has refused to yield herself to his subjection as her lawful husband; now for remedy in the premises.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That from and after the pas-

sing of this act, the marriage of the said John and Mary Van Pelt, formerly Pigg, shall be and the same is hereby dissolved; and the said John shall not be bound either in law or equity to furnish any aid or support to the said Mary, but they shall hereafter be as separate and distinct as though they had never been married, and shall so continue during the time of the natural life of either or both of them.

*Divorced &
viru's marri-
monic.*

Passed 4th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 17th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To incorporate an academy in Jackson County to be named the Union Academy.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That an academy be, and is hereby, established in Jackson County, the site to be located by the following named trustees or a majority of them, to be known by the name of the Union Academy, to be under the superintendance of Arthur Foster, Burnett Ferrill, George C. Hodges, Holiday Haley, Joshua Scurlock, Robert Jones and William Foster, and their successors, who are hereby constituted a body corporate, to be known by the name and style of the board of trustees of Union Academy, and they are hereby made capable of receiving donations for the benefit of the institution, of suing and being sued, doing and performing all other acts, and shall possess all other powers incident to bodies corporate of the like kind.

*Union acade-
my incorporat-
ed.*

Trustees.

Name and
style.

Power of
Trustees.

Sec. 2. Be it further enacted, That the aforesaid trustees and their successors, shall have power to fill all vacancies occasioned in their board by death, resignation, removal or refusal to act, to appoint their President and their other officers, to engage such teacher or teachers as may be necessary for conducting the literary concerns of the Academy, to hold stated and called meetings of the

board for the purpose of examining into the proficiency of the students, and to make all bye laws and regulations for the government of the institution and promoting learning, virtue, and morality among the students ; the president may at any time call a meeting of the board and a majority of the members may form a quorum capable to transact business.

Authorised to
raise money by
lottery

Sec. 3. Be it further enacted, That the said trustees shall hold their first meeting at the house of Mucidine D. Cains, on the second Monday in January next, and at such other times and places as they may think expedient, and that for the purpose of raising or creating a fund, the said trustees are hereby authorised to raise a sum not exceeding one thousand dollars by way of lottery, upon such schemes as they may devise at their discretion, and this act to be in full force from its passage.

Passed November 18th, 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

To incorporate a company to be called the Ocklocknee and Lake Jackson Canal and Navigation Company.

company.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Robert Butler, Richard K. Call, John S. Shepherd, Isham G. Searcy, Thomas Brown and Isaac W. Mitchell of the county of Leon, and Jonathan Robinson, Malcolm Nicholson, Henry Gee, Thomas Speight and William Norwood of the County of Gadsden, and such other persons as they may receive into their company, and their heirs, successors and assigns, are hereby created, constituted and ordained, and forever shall be a body corporate and politic, by the name and style of, "the Ocklocknee and Lake Jackson Canal and Navigation Company," and by such corporate name, shall be capable in law to buy, purchase, hold and convey both real and personal estate, to receive donations

Name and
style of:

Corporate pow-
ers

and subscriptions, and make contracts, to sue and be sued, plead and be impleaded, to have a common seal, and to alter and renew the same when they may deem it necessary, and to do and perform all other lawful acts and things incidental and pertinent to a corporate body, and which may be necessary and proper for the convenient transaction of its affairs; Provided, nothing herein contained shall authorize said company to issue notes or bills of credit, or in any way to exercise banking powers; Provided, the same be not contrary to the laws of the United States and of this Territory.

Sec. 2. Be it further enacted, That the said company shall enact a code of bye laws for the Government of she same, and shall annually hold an election at such time and place, and under such regulations and restrictions as they may in their bye laws prescribe, for a President and as many directors as shall be requisite for the management of the business of the said company, to be provided for in the bye laws thereof; and the said President and directors when elected shall have the power to appoint such subordinate officers and agents as may be necessary, and at any time to dismiss them from office for improper conduct, and shall be capable of exercising such other powers and authorities, for the well governing and good ordering of the affairs of the said company, as to them shall appear conducive to its interest, and the public good.

Sec. 3. Be it further enacted, That the stock of the said company shall be divided into as many shares as the said company by their bye laws may determine on, and the scale of sufferage shall in like manner be regulated, and when necessary it shall be lawful for the President and directors of the said company at such like time and place as they shall determine on, to open or cause to be opened books, for the purpose of receiving subscriptions to create or increase the capital of the said company by instalments, or if it shall be deemed necessary to accomplish the objects of this corporation, it shall and may be lawful for the President and directors of the said company, to sell a scheme of a lottery, in one or more schemes under such limitations and provisions as they may determine on in their bye laws, so that the neat proceeds of said lottery shall not exceed fifty thousand dollars.

Sec. 4. Be it further enacted, That the said company shall have the right, and the same is hereby fully granted

Bye-laws.

Officers.

Stock to be divided into shares.

Authorized to make lottery.

Right to cut canals &c. granted.

unto them, to cut a canal, erect dams, embankments, and other works for the transportation of produce, goods, merchandise and all other articles whatsoever, and all other useful purposes, from the Ocklocknee river to Lake Jackson, and from Lake Jackson again into the said river Ocklocknee, and thence to open and improve the navigation of the said river to the bay of Ocklocknee, or from the said Lake Jackson to the head of the Wakkula river, and thence down said river to the bay of St. Marks, as to the President and directors of said company may seem most practicable, and conducive to the interest of the said company and the public weal ; and to this end they may commence their works at any point upon the said Ocklocknee river, which may be best suited to the accomplishment of their object, and pursue such course and direction with the same, as may be deemed most advantageous by the President and directors of the said company ; and moreover to the accomplishment of the same ends, it shall and may be lawful for the said company to extend their canal and other improvements into, and through the Lakes Iamonia and Mickosuchee, or any other lakes, ponds, rivers or streams within the counties of Leon, Jefferson and Gadsden, between the rivers Ocklocknee and Ocilla, and the Gulf of Mexico.

May enter on
lands &c.

Compensation
shall be made
therefor.

May take from
any land, tim-
bers, stones &c
necessary.

Sec. 5. Be it further enacted, That in constructing the said canals and other works, it shall and may be lawful for the said company by the president and directors thereof, or by their proper authority, to enter upon and take possession of any lands whatsoever, whether covered with water or not, which may be necessary to the prosecution and completion of the works contemplated by this act ; or whereupon it shall or may be necessary to open any canal or other works, or to construct and erect any lockes, dyks, dams, embankments and other fixtures, intended or implied by this act, subject to the restrictions hereinafter to be specified ; Provided, that no lands owned by private individuals shall be taken for the purposes aforesaid, without adequate compensation.

Sec. 6. Be it further enacted, That it shall and may be lawful for the president and directors of said company, or their properly authorized agent, to take from any land most convenient to their works, at all times, such timbers, stones and other materials, as may be necessary for the construction of, and keeping in repair,

the said works and improvements ; Provided, that nothing belonging to private individuals shall be taken without adequate compensation, to be determined in the manner hereinafter Provided.

Sec. 7. Be it further enacted, That whenever it shall become necessary for the said company to take possession of, and use any lands, timbers, stones and other materials owned by private individuals, for the route and site of the said works, or for the construction and keeping in repair of the same or any part thereof, and if the parties do not agree upon the value of the same, it shall and may be lawful for the president and directors of the said company or their properly authorized agents, on giving ten days notice at least, in writing to the party owning the same or to his or her agent, to apply to the Judge of the county court of the county in which such lands, timber, stones or other materials lie, and if there be at the time, no Judge of the county court, of the county next adjoining, or the Judge of the district court, for a *writ of ad quod damnum*, directed to the Sheriff, Marshal or other officer properly qualified of the said county, to summon five disinterested persons of lawful age and house-keepers, to meet and value the said property, upon oath to be administered by the Judge, or the Sheriff, Marshal or other officer summoning the same, whose duty it shall be to attend in person the said inquest, and receive their report, and also from the said president and directors of the said company, or their agent, the sum or sums of money to be adjudged by the said report, and to pay over the same to the person or persons authorized to receive it, and to take an acquittal or a refusal of the same ; on tender of the sum awarded, by the party entitled to receive it, or his or her agent, it shall not be lawful for the said company to take possession of and use such lands, timbers, stones, or other materials ; Provided, that nothing in this act shall be so construed as to prevent the said company from the use of such lands, timbers, stones and other materials belonging to private individuals, who may be minors, *non compos mentis*, or suffering under any other disabilities, or when the lands may be in dispute, but in such cases, award of the appraisers shall be received by the sheriff, marshal or other officer, properly qualified, and held subject to the order of the Judge of the county court of the county in which such property lies, and if there be no Judge of the coun-

Proviso.

Value of lands,
timbers, stones
&c. how de-
termined.

Proviso, as to
infants lunatics
&c and dispu-
ted titles.

ty court, then the Judge of the district court, until the disability under which the party owning may labour, shall be removed, or the disputed title settled; but the payment to the sheriff, marshal, or other officer properly qualified, shall be a full and perfect discharge for the president and directors of the said company or their agent; but all the expenses incurred under the writ of *ad quod damnum*, shall be paid by the President and directors of said company or their agent; Provided, the appraisers shall not be allowed more than one dollar each per day whilst engaged in such duties.

Costs of the proceedings.

Pay of appraisers.

Property so assessed and paid for, vested in the company in fee.

To clear and keep open streams.

Corporation how dissolved.

May demand tolls and fees.

Sec. 8. *Be it further enacted*, That all property so assessed and paid for, by the president and directors of the said company or their agent, agreeably to the provisions of this act, and all donations made to the same, shall forever afterwards belong to, and become the property of the said company, their heirs, successors and assigns in fee simple, in proportion to the shares owned respectively.

Sec. 9. *Be it further enacted*, That the President and directors of the said company shall have the right to clear, and keep open and free from obstructions, all streams and other waters susceptible of navigation and clearing, for boats or other craft, between the rivers Ocklocknee and Ocilla and the Gulf of Mexico, in such way as the President and Directors may consider best, for carrying into effect the objects herein contemplated.

Sec. 10. *Be it further enacted*, That it shall be the duty of the President and directors of the said company, to commence their works for the construction of the said canals and navigation, within the term of two years from the passage of this act, and if the said works shall not have been commenced within the time aforesaid, or having been commenced, shall be abandoned or neglected for the term of one year at any one time, or if after said works shall have been completed, they shall be permitted to go down and remain so for the term of one year, without any attempt to repair and put the same in good order, then and either of said events, the said corporation shall be dissolved unless some unavoidable cause can be shewn in justification.

Sec. 11. *Be it further enacted*, That the President and directors of the said company shall have a right to demand and receive tolls and fees for the transportation of produce, goods, merchandise or other articles through

said canals, or other navigable waters, or for permitting boats or other craft to navigate and pass through the same, at such rates and tolls as may be agreed and determine on, by the President and directors of the said company, and enacted in their bye-laws; and may be changed and altered, from time to time, as circumstances may render it necessary until a regular rate of tolls shall be established by law; Provided, that the said tolls or fees shall not at any time be increased by the President and directors of the said company, without public notice duly given; and the said company shall continue to receive such tolls and fees as they may from time to time establish, or which may be regulated by law, so long as the said canals and navigation shall be kept in sufficient order by the said company, their heirs, successors and assigns, for the transportation as aforesaid, and all produce, goods, Merchandise, boats and other articles and things transported or conveyed through the said canals or navigable waters, shall be liable for the tolls and fees for which they are respectively chargeable, and may be detained until the same be paid and discharged.

Provis.

Sec. 12. Be it further enacted, That any share holder in the said company may, and shall have the right to dispose of and transfer his or her interest in the same, or any part thereof, to any other person or persons; but the stock of the said company and all the property belonging thereto, or which may from time to time be acquired by the said company, shall be held jointly and not separately; Provided, that nothing in this act shall be so construed, as to prevent the members of said company from using the profits and dividends which may be declared upon the said stock to his or her individual purposes.

Shares may
be transferred.

Sec. 13. Be it further enacted, That this act shall be liberally construed for the benefit of said company, and to carry into complete effect the objects herein contemplated; and the said company shall be governed in all its operations not herein provided for by its own bye laws; Provided, the same are not repugnant to the laws of the United States and of this Territory.

This act to be
liberally con-
strued.

Passed November 19th, 1828. PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL.

Governor of the Territory of Florida.

AN ACT

To open a Steam boat passage near to the Atlantic coast.

Indian river
navigation
company in-
corporated

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That those persons and their assigns and successors, who shall hereafter subscribe in the manner and for the object prescribed by this act, be and they are hereby created a body corporate by the name and style of the Indian river navigation company, vested with the right and charged with the duties hereinafter set forth, and as such, may sue and be sued, and generally assume the identity a natural person in law and equity, and do other acts as of individual capacity.

To construct
canals.

Sec. 2. *Be it further enacted, That the said corporation shall have power to open canals, connecting the waters of the river St. Johns with those of the Florida reef; Provided, that the said canal shall commence at the Pablo creek on the river St. Johns, and run to the North river, thence down the same to St. Augustine, thence to the river Matanzas, through the harbour of St. Augustine, and shall be of sufficient dimensions to admit of navigation for steam boats; and the said corporation shall enjoy the exclusive right to carry passengers in steam boats on the said canals for the term of twenty five years, to begin at the time when the said canals shall be opened and made navigable.*

Exclusive
right of carry-
ing passengers
granted.

Profits of com-
pany not to ex-
ceed 25 per
cent.

Shall keep an
account of re-
ceipts expen-
ditures.

To be inspect-
ed by the Gov-
ernor or agent.

Commission-
ers appointed.

Sec. 3. *Be it further enacted, That the profits of the said corporation, shall not exceed twenty-five per cent per annum upon the amount of the capital actually subscribed; and the said corporation shall cause to be kept an exact account of all the passage money, freight and fares which shall, from time to time, be collected and received by the said corporation on the said canals, and an exact summary thereof, and a summary of the expenditures of the said corporation to be annually made and transmitted to the Governor of the Territory, to whom or to whose agent the inspection of the books and records of said corporation, shall be subject whenever thereto required.*

Sec. 4. *Be it further enacted, That Wm. H. Simmons, Joseph M. Hernandez, Pardon C. Green, Zephaniah Kingsley, Feilding A. Brown, John Bulow, George*

Anderson, Peter Mitchell and Thomas Dummett [be] and they are hereby appointed commissioners, and a majority of them shall have power to act with the powers necessary to organize the said corporation ; and the said commissioners shall on or before the first Monday in May next open books of subscription towards the capital stock of the said company at St. Augustine, and at such other place or places as to the said commissioners shall seem proper, and they shall give public notice thereof in one or more newspapers, at least two months previously to the opening of the said subscriptions.

To open sub-
scription books

Sec. 5. Be it further enacted, That the capital stock of the said corporation shall be divided into shares of twenty-five dollars each ; and no part of the said stock shall be appropriated, used or applied in any manner, other than in the payment of the expenses necessarily incurred and incident to the opening of the said canal and keeping the same in repair, and the procurement and maintenance of steam boats to navigate the same ; and when the sum of ten thousand dollars shall have been subscribed and actually received by the said commissioners, it shall then be the duty of the said commissioner, by public advertisement to convene the subscribers to the said stock, within a period not exceeding three months after the receipt of the same, and at such place as to the commissioners may seem advisable.

Stock to be
divided into
shares.

How appro-
priated.

Convention of
subscribers,
when to be
made.

Sec. 6. Be it further enacted, That when the subscribers or a majority of them shall be so convened, they may appear personally or by proxy, and the said subscribers or a majority of them shall personally or by proxy have full power and authority to elect a President and nine directors of the said corporation, and such other officers as may be necessary to conduct the affairs of the same, and to make such rules and regulations not inconsistent with law as may be necessary for the government of the said officers and conducting the affairs of the said corporation.

Officers of the
company, and
how elected.

Sec. 7. Be it further enacted, That the said commissioners shall pay over and transfer to the President and directors of the said corporation the money and records by them received and made, deducting therefrom the amount of expenses necessarily incurred in virtue of this act, but the said commissioners shall not be entitled to retain any pecuniary compensation for their services, and when the transfer of the money and records shall thus

Commission-
ers to transfer
monies &c to
directors.

have been made, the duties of the said commissioners shall cease.

Lands passed through by canal.

Sec 8. *Be it further enacted*, That if any individual or individuals through whose lands the said canal may pass shall consider himself, herself or themselves aggrieved or injured thereby, the damage shall be determined in like manner as is prescribed by law for writs of *ad quod damnum*; Provided, the parties cannot agree as to the amount, and the amount of damages so determined shall be paid by said corporation to the party or parties in whose favor the same shall be determined.

Rates of freight &c may be curtailed.

Sec. 9. *Be it further enacted*, That the records of the transactions of the said corporations shall at all times be subject to the inspection of the Governor or his agent as aforesaid, and whenever it shall appear, that the exactions of the said company for freight, passage money or fare, are unreasonably great and more than sufficient to reimburse the said corporation for its capital employed, and an annual profit not exceeding twenty five per cent thereon, according to the true intent and meaning of this act, then the Governor or his agent shall have power, and it is hereby made his duty to curtail the said exactions.

Territory may purchase an interest.

Sec. 10. *Be it further enacted*, That at the expiration of ten years after the completion of the said canals, the Territory (or State as the case may be,) shall have the exclusive right of purchasing one half of the said stock; Provided, the said Territory (or State) should see fit to take an interest in the same.

Canals to be completed in five years.

Sec 11. *Be it further enacted*, That said canals shall be completed so as to admit of steam boat navigation within the period of five years from and after the first day of January one thousand eight hundred and twenty nine, otherwise this act shall stand and the same is hereby declared to be null and void.

Passed 8th November, 1828.

PETER ALBA,
President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 21st, 1828.
WILLIAM P. DUVAL,
Governor of the Territory of Florida.

AN ACT

To incorporate the Town of Magnolia.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the white male inhabitants over the age of twenty one years comprehended within section eighteen, township three, range two, south of the basis parallel, and east of the meridian in the county of Leon and District of middle Florida, shall be and they are hereby constituted a body politic and corporate by the name and style of the Town of Magnolia, and by their corporate name may sue and be sued, implead and be impleaded, and do all other acts as natural persons, and may purchase and hold real, personal and mixed property or dispose of the same for the benefit of said town.

Magnolia incorporated

Sec. 2. Be it further enacted, That the government of the town shall be vested in a Mayor and six Councilmen, to be elected in the manner hereinafter designated, each of whom shall have the qualification of being the proprietor of a lot, and shall have resided six months within the limits aforesaid, in order to fill either of said offices.

Governmeut
of the town.

Sec. 3. Be it further enacted, That the Mayor shall have the power, exercise all the duties and may receive the fees of a justice of the peace **within** the limits of said corporation,

Powers of the
Mayor.

Sec. 4. Be it further enacted, That the town council shall have full power and authority to prevent and remove nuisances, to pass all bye-laws and ordinances, to regulate and establish markets, to license and regulate retailers of liquors, billiard table keepers, theatrical and other public amusements, tavern keepers, to erect and repair bridges and wharves; Provided, that no bridge or wharf shall be erected across the St. Marks river so as to prevent the free passage of boats or other craft ascending or descending said river, to regulate the stationing, anchorage and moving of vessels, to establish and regulate quarantine laws for the preservation of the health of the town, to regulate and appoint pilots, likewise to appoint a health officer, to direct the safe keeping of the standard of weights and measures appointed by Congress, to provide and regulate burial grounds out of said limits for the use of said town, to establish and regulate patrols, to tax and license hawkers and pedlars, to restrain and

Powers and
authority of
the town coun-
cil.

prohibit all sorts of gaming, to restrain and prohibit tipping houses and lotteries, to provide for the establishment of public schools and superintendance of the same, to restrain and punish vagabonds and disorderly persons, to regulate and license ferries, to keep in repair all necessary streets, to restrain and punish the disorderly conduct and offences committed by negroes and persons of colour, to lay and impose taxes and provide for the collection of the same, to impose and appropriate fines and penalties and forfeitures for breach of their ordinances ; Provided no ordinance shall take effect until ten days after its promulgation, and generally to provide for the interior police and good government of said town.

Sec. 5. Be it further enacted, That the said town council shall have power to compel the attendance of its own members, and to Judge of the election and qualifications of its own members, and the yeas and nays on any question shall at the request of any two members be placed on the record.

Sec. 6. Be it further enacted, That the whole number of town councilmen elected shall be seven; and that the said election shall be made by ballot and shall be held at such place within the town as the commissioners shall appoint.

Sec. 7. Be it further enacted, That the Mayor shall have power to fill vacancies in their own body by causing elections to be made, in the manner herein directed, out of the citizens qualified to fill the said office.

Sec. 8. Be it further enacted, That the Mayor and councilmen shall in all cases continue to exercise their respective functions until their successors be elected and qualified to serve.

Sec. 9. Be it further enacted, That the board of councilmen shall within five days after their election convene at such place as the Mayor may appoint within the limits of said town and proceed to the election, by ballot, of the mayor of said town, who shall be elected from among the councilmen elected as aforesaid ; and the person having the greatest number of votes shall be and exercise the powers and functions of Mayor for the ensuing year.

Sec. 10. Be it further enacted, That the said Mayor shall be president of the board of town councilmen, and in case of his death, resignation or removal from office, the board of councilmen shall cause an election to be held,

Shall have
power to com-
pel the atten-
dance of mem-
bers.

Election of
councilmen.

Vacancies
how filled.

Councilmen to
act until suc-
cessors qualifi-
ed.

Council to
elect a mayor.

Mayor shall be
president of
the council.

and the vacancy filled from their own body as heretofore enacted.

Sec. 11. *Be it further enacted,* That the appointment of all town officers shall be made by the mayor and councilmen jointly, and two thirds of their whole number shall be necessary to a choice.

Election of officers.

Sec. 12. *Be it further enacted,* That two thirds of the members of the board of councilmen shall be a quorum to do business, but a smaller number may adjourn from day to day, they may compel the attendance of absent members in such manner and under such penalties as they may by ordinance provide ; they shall settle their rules of proceedings, appoint their own officers, regulate their respective fees, and remove them at pleasure, and may, with the concurrence of two thirds of the whole, expel any member for disorderly behaviour or mal conduct in office; they shall keep a journal of their proceedings, and their deliberations shall be public.

Quorum.

Sec. 13. *Be it further enacted,* That it shall be the duty of the said Mayor to see that the ordinances of the said council are duly executed and to call a meeting of the councilmen whenever in his opinion the public good may require it : that said mayor shall within five days after his election take an oath or solemn affirmation before any judge or justice of the peace of this Territory "that he will to the utmost of his power support, advance and defend, the interest, peace and good order of the town of Magnolia, and faithfully and diligently discharge the duties of mayor of the said town during his continuance in office, and that he will support the constitution of the United States;" and he shall within the aforesaid time of five days after the election, convene the councilmen elect and administer to each of them an oath or affirmation similar to that taken by himself.

Expulsion of members.

Duty of the Mayor.

His oath of office.

Oath of the councilmen.

Sec. 14. *Be it further enacted,* That the first election for councilmen under this act shall take place on the first Monday in January 1829, and each succeeding election shall be held on the first monday in January every year, and the said elections shall be held under the inspection and superintendance of three inspectors, whose duty it shall be to receive the votes and to cause the name of every voter to be taken down and inscribed in a book, to be kept for that purpose, and to cause the poll to be opened and continued open from nine o'clock A. M. until 4 o'clock P. M. when the ballots shall be told and the

Time of election.

Manner.

names of the seven persons having the greatest number of votes shall be declared, and notice of their election given to each of them.

Mayor to appoint inspectors of election.

Qualification for electors.

Inspectors appointed.

Sec. 15. *Be it further enacted,* That it shall be the duty of the mayor of said town, at least ten days previous to the day appointed for election to appoint the inspectors of election required by this act, and to notify them of such appointment, and the said inspectors shall give public notice at least three days thereafter of the time and place of such election.

Sec. 16. *Be it further enacted,* That every white male inhabitant of twenty one years and upwards, who shall have resided three months within the limits above described shall be entitled to vote for councilmen for such corporation.

Sec. 17. *Be it further enacted,* That Nathaniel Hamlin, Thomas A. Cotton and Allen Faircloth Sen. be, and they are hereby appointed inspectors to superintend the election for councilmen for said town on the first Monday in January 1829, and they or any two of them may do the duties of superintending required.

Passed 7th November 1828.

PETER ALBA.

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved, November 12th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To incorporate the Town of Quincy.

Quincy commissioners for.

Corporate name.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That Hezekiah Wilder, John T. J. Wilson, James A. Wooten, Hector McNeill, and William Smith of said place, and their successors in office, be, and they are hereby, created a body corporate and politic, by the name and style of, Commissioners for the Town of Quincy, and as such, may assume the rights and privileges of a body politic or corporate, with the trusts, powers and duties hereinafter provided.

Sec. 2. Be it further enacted, That said commissioners shall hold their respective offices, for and during the term of one year from the date of their appointments and they shall have power, and it is hereby made their duty, to fill all vacancies that may happen in their body by death, resignation or removal, and shall in regular succession, at the expiration of their term of service, hold an election on the first Monday in January for the requisite number of members (citizens of the said place): Provided, that in all cases, when the said commissioners shall fail to hold an election as is prescribed, it shall and may be lawful for any Justice of the Peace residing within the limits of the aforesaid incorporation, to appoint three discreet persons, citizens of said town of Quincy, whose duty it shall be, to give three days notice of an election to be held to fill such vacancies, and proceed to hold such election.

Duration of office.

Sec. 3. Be it further enacted, That all free white male citizens of the age of twenty one years residing within the limits of said town, shall be entitled to vote in the election for commissioners of said town.

Qualification of electors.

Sec. 4. Be it further enacted, That said commissioners shall, from their body, elect a chairman, who shall be known and described as the Magistrate of police; and not more nor less than three of said commissioners shall be necessary to constitute a board for the transaction of business.

The magistrate of police.

Sec. 5. Be it further enacted, That the chairman or magistrate of police, is hereby invested with the authority to convene said commissioners for the transaction of business, as often as he may deem necessary, and in case of the absence or neglect of said chairman or magistrate of police to convene said commissioners, it shall and may be lawful, for any three of said commissioners to convene, and appoint a chairman or magistrate of police for the time being, for the transaction of business.

Authority of the magistrate of police.

Sec. 6. Be it further enacted, That said commissioners shall have the full power and are hereby invested with the authority to prevent or remove nuisances, to license retailers of spirituous liquors, and prescribe such rules and regulations as may be deemed necessary for the good order and quietude of said town; they shall furthermore have the power to prohibit all sorts of gambling, to regulate markets, to commission and license weighers, to direct the safe keeping of the standard of

Authority of commissioners.

weights and measures, to provide for the opening and preservation of streets, squares, wells, pumps, and other public structures, to appoint patrols for said town, and prescribe rules and regulations for their government and generally provide such laws and regulations for the police and good government of said place, as they may deem necessary.

For the pow-
ers.

Sec. 7. Be it further enacted, That said commissioners, through their chairman or magistrate of police, shall have power to carry into effect all laws and regulations of their own board : Provided nevertheless, that no punishment by imprisonment for contempt or other violation of the ordinances of said commissioners, shall exceed twenty four hours, nor shall any fine exceed the sum of ten dollars.

Constable.

Sec. 8. Be it further enacted, That said commissioners shall have the power and authority to appoint a constable, whose duty it shall be to serve all process emanating from the said corporate body, and to suppress all riots, routs, affrays and breaches of the peace, contrary to the good order and harmony of society, and for this purpose, he is hereby invested with all the authority, rights and privileges of the constables of the several magistrates districts in this Territory.

Commission-
ers may en-
force their
laws &c.

Sec. 9. Be it further enacted, That said commissioners shall have power to enforce the collection of any fines, debts, dues, demands or forfeitures due said corporation; Provided nevertheless, the parties may be heard in person or by counsel, and that appeals to the County or Superior court be not allowed; and provided further, that the said constable shall receive, exact or claim no other or greater fees for his services, than are provided in similar cases by law ; the said commissioners shall have the power to levy a tax on town lots and apply the same to such useful, public and charitable purposes as they may deem necessary to advance the interest and welfare of said town.

Chairman to
record proceed-
ings.

To receive
monies &c.

Sec. 10. Be it further enacted, That the chairman or magistrate of police shall keep a book, in which he shall record the proceedings and orders of the commissioners at their several meetings, he shall keep a fair and correct account of all the receipts and money coming into his hands, and of all disbursements made by the commissioners ; it shall be his duty to issue all notices, advertisements, process and receipts for, and on behalf,

of said corporation, to preside at their meetings and to preside on all process emanating by virtue of this act, and when disbursements or appropriations of money are to be made, to notify all the commissioners or so many thereof, as may be within the reach of his process to attend at the meeting pending wherein there is to be a disbursement or appropriation of money.

Sec. 11. Be it further enacted, That the boundary lines of the quarter section allowed for said town of Quincy, be the limits of said corporation.

Corporate limits.

Sec. 12. Be it further enacted, That this act shall take effect from and after the first day of January next.

Passed 19th November 1828.

PETER ALBA.

President of the Legislative Council

THOS. MUNROE, Clerk.

Approved November 21st, 1818.

WM. P. DUVAL,

Governor of the Territory of Florida.



AN ACT

To determine the Compensation of the Officers of the Legislative Council, and for other purposes.

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That the following sums be allowed the Clerks and other officers of the Legislative Council, and for the contingent expences incurred for the use of the same, viz ;

Compensation
to officers of
council.

To Thomas Munroe, Chief Clerk, four hundred dollars.

To Gabriel Floyd, enrolling and engrossing clerk, three hundred and seven dollars and fourteen cents.

To James Hughes, enrolling and engrossing clerk, two hundred and eighty two dollars thirty cents.

To David Levy, enrolling and engrossing clerk, two hundred and thirty seven dollars and forty six cents.

To John Gray Jr. enrolling and engrossing clerk, two hundred and eighty two dollars and thirty cents.

To Abr'm. Levison, enrolling and engrossing clerk, two hundred and ninety five dollars and sixty four cents.

To Samuel Fry clerk, two hundred and fifty dollars.

To John K. Campbell clerk, two hundred and fifty dollars.

To William Wilson, for printing done for the Legislative Council, three hundred and thirty eight dollars sixty cents.

To Jesse Potts, Sergeant at arms and for servants hire, one hundred and sixty dollars.

To Charles Trippie door keeper, and for fuel furnished, one hundred and eighty dollars.

To Betten and Emory for stationary &c. one hundred and sixty six dollars and one cent.

To C. C. & R. W. Williams for stationary, forty six dollars and forty three cents.

Sec. 2. Be it further enacted, That the Governor of the Territory is hereby authorised and requested to certify the above mentioned claims to the general government.

Passed 23d November, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 23d, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

AN ACT

To incorporate the Town of Key West.

town of Key
West incorpo-
rated

Be it enacted by the Governor and Legislative Council of the Territory of Florida, That all the free white inhabitants of that part of the Island of Key West in the county of Monroe, comprehended within the limits prescribed by the plan of said town, now on file in the clerks office of said county, shall be, and they are hereby constituted a body politic and corporate by the name and style of the town of Key West, and by their corporate name may sue and be sued, implead and be impleaded, grant, receive and do all other acts as natural persons, and may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of said town, and may

have and use a town seal, which may be broken or altered at pleasure.

Sec. 2. Be it further enacted, That the government of said town shall be vested in a person to be called a President, and in a board of councilmen to be elected in the manner, by the persons and at the time, hereinafter directed.

Sec. 3. Be it further enacted, That all free white male persons over the age of twenty-one years, who shall have resided within the limits of the aforesaid town three whole months previous to the day of election, shall have a right to vote for seven town councilmen; that said election shall be held on the first Monday of January in each year, at such place as the said council may appoint, and the votes shall be given by ballot.

Sec. 4. Be it further enacted, That said town councilmen shall have power to elect from their own body a President, and not less than three of their own body shall be necessary to transact business, and shall meet at such times and places within the limits of the aforesaid town as they may deem necessary.

Sec. 5. Be it further enacted, That said town councilmen shall have power and full authority to prevent and remove nuisances, to license and regulate retailers of spirituous liquors, to restrain and prohibit all sorts [of] gaming, to establish and regulate markets, the safe keeping of weights and measures, to provide for and regulate streets, squares and lots, and the erection of fences and other structures, to commission and license weighers, to regulate patrols to restrain and punish vagabonds and disorderly persons, to erect and keep wharves, to appoint pilots and regulate pilotage for said town, its harbour and the entrance into the same, to regulate the anchorage and mooring of vessels in the same, to tax and license hawkers and pedlars, or transient traders, and generally to provide for the interior police and good government of said town.

Sec. 6. Be it further enacted, That said town councilmen shall have power and authority to enforce all laws of the Legislative Council of this Territory, and of their own body, regulating the quarantine of vessels and for the preservation of the health of said town, and shall have the power to appoint a health officer and such other officers as shall be deemed necessary to carry into effect all their laws and ordinances, and shall allow them such

Government
of the town

Qualification
of electors.

President how
elected.

Quorum.

Power and au-
thority of the
town council.

Their power
as to the laws
of the Territory.

Quarantine
regulations.

Preamble. compensation as they may deem proper and right for their services.

Poll tax.

Sec. 7. *Be it further enacted,* That said town councilmen shall have power to levy a poll tax not to exceed one dollar on each poll, to go towards the maintenance of said corporation.

Publication of their ordinances.

Sec 8. *Be it further enacted,* That all ordinances and laws of said town councilmen shall be posted up in three of the most public places in said town, at least three days before they shall take effect.

Vacancies how filled.

Sec. 9. *Be it further enacted,* That said town council shall have the power to fill all vacancies that may happen in their own body during the recess of their annual election, and shall in all cases hold their respective offices until their successors are duly qualified and elected into office according to the provisions of this act.

Power and authority of the President. Sec. 10. *Be it further enacted,* That the President of said town council shall, within the limits of said town, have and exercise all the powers and shall be entitled to receive all the fees and emoluments of a justice of the peace for this Territory.

Repealing clause. Sec. 11. *Be it further enacted,* That the act entitled an act to incorporate the Island of Key West, passed January 8th 1828 be, and the same is hereby, repealed: Provided that such repeal shall not be construed to vacate the offices of the present President and councilmen of said town, but the said President and councilmen shall continue to have and exercise their said offices until the day prescribed by this act for a new election.

Proviso. Passed 8th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOMAS MUNROE, Clerk.

Approved November 10th, 1828.

WILLIAM P. DUVAL,

Governor of the Territory of Florida.

RESOLUTION.

Preamble.

Whereas, in pursuance of a Resolution of the Legislative Council of the Territory of Florida, passed at its last session, Davis Floyd, Treasurer of said Territory hath received from Dorothy Walton of the City of

Pensacola, a conveyance to the Territory of Florida of three several tracts or parcels of land near the city of Tallahassee, and in consideration of said conveyance hath assigned to the said Dorothy Walton a certain judgment obtained in the Superior court of the middle district of Florida, in April term one thousand eight hundred and twenty eight, by the Territory of Florida against George Walton, for ten thousand three hundred and seventy two dollars and forty five cents damages, and twenty five dollars and twenty five cents costs; in order the better to insure the validity of said conveyance and assignment, and for the final settlement of the accounts of the said George Walton with the Territory of Florida:

Resolved by the Governor and Legislative Council of the Territory of Florida, That the said conveyance and assignment be, and the same are hereby approved and confirmed, and the said Davis Floyd, Treasurer as aforesaid is hereby authorised to grant to the said George Walton a full, complete and final discharge of and from all claims, debts and demands of the Territory of Florida against him the said George Walton, on all and every account whatsoever.

Be it further resolved, That the deed aforesaid and power of attorney accompanying the same, be returned to the Territorial Treasurer, with instructions to have the same legally recorded and filed away in his office, as property belonging to the Territory.

Adopted 24th, October 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved, October 25th, 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

Treasurer au-
thorized to
give discharge
to Geo. Wal-
ton.

Certain con-
veyances to be
recorded.

RESOLUTION.

For the relief of R. C. Allen.

Whereas Richard C. Allen Esq'r. the agent appointed to select and locate the two townships of land, granted by Congress for a seminary of learning in the Territory of Florida, has executed the agency and perform-

Preamble.

ed the duties thereof in a manner fully satisfactory, and for the promotion of the best interests of the Territorial Seminary; and whereas, also it appears here, that his labor's have been arduous, and that considerable expenditures of money have been necessarily incurred by him in the discharge of his duties.

*Two sections
of land grant-
ed him.*

*Therefore be it resolved by the Governor and Legisla-
tive Council of the Territory of Florida,* That for and in consideration of the money expended, and services performed in virtue of said agency, there be given and granted to him Richard C. Allen, and to his heirs and assigns forever, two sections of land to be designated by the Governor from among any of the lands selected and located by said agent, for the use and benefit of said seminary of learning; and it is hereby resolved and declared by the authority aforesaid, that all the rights, title, interest and claim which the Territory of Florida now has or may hereafter acquire, to said two sections of land as above directed to be designated by the Governor, is hereby granted, aliened and confirmed to said Richard C. Allen, and to his heirs and assigns forever.

Be it further resolved, That the Congress of the United States be hereby respectfully requested to direct that Patents be issued to said Richard C. Allen for the two sections of land above mentioned, whenever the same shall have been designated in the manner prescribed in the foregoing part of this resolution.

Passed, 18th November, 1828.

PETER ALBA,
President of the Legislative Council.
THOMAS MUNROE, Clerk.

Approved November 21st, 1828.

WM. P. DUVAL.
Governor of the Territory of Florida.

Preamble.

Whereas it is deemed essentially necessary for the better protection of the revenue and inhabitants of the Island of Key West, that a Military force should be established and located upon said Island; therefore,
Be it resolved by the Governor and Legislative Council of the Territory of Florida, That the Delegate to Con-

A RESOLUTION.

gress be requested to use his best exertions to effect the establishment of one company of the United States Artillery at the Island of Key West.

Company of
troops request-
ed for Key
West.

And be it further resolved, That it shall be the duty of the Clerk to transmit to the Delegate a copy of this resolution immediately.

Adopted 19th November, 1828.

PETER ALBA,

President of the Legislative Council.

THOS. MUNROE, Clerk.

Approved November 23d 1828.

WM. P. DUVAL,

Governor of the Territory of Florida.

A RESOLUTION.

For the relief of Samuel Fry.

Be it resolved by the Governor and Legislative Council of the Territory of Florida, That the Treasurer of this Territory be and is hereby directed to pay to Samuel Fry, the sum of two hundred and twenty five dollars, out of any money in the Treasury not otherwise appropriated, as a remuneration for the expenses incurred by him in travelling and attending at Tallahassee, in a contested election for the District, composed of the Counties of Musquito and Monroe, in the year one thousand eight hundred and twenty six.

Treasurer di-
rected to pay
S. Fry \$225.

Passed 19th November 1828.

PETER ALBA.

President of the Legislative Council

THOS. MUNROE, Clerk.

November 23d, 1828.

Rejected by the Governor, reconsidered and passed by the requisite majority of the Council.

INDEX.

ABATEMENT.

Of actions by death, what actions abate	34
Of one a firm, no abatement	"
By marriage,	
Of female pl'ff. or de'ft. no abatement	"
Suit how to proceed thereafter	"
<i>Pleas in abatement.</i>	
When and how to be received	33
<i>Pleas, declarations &c.</i>	
Not to abate for matter ofform &c.	"
Abatement of nuisances (see Nuisances)	70
A. B. C. or E. O. TABLES.	
Keepers of, liable to fine, imprisonment &c.	71
To be held as Vagrants	"
Persons permitting gaming tables to be kept in their houses	69

ABSCONDING DEBTORS (vid. attachment)

ABSENT DEBTORS (vid attachments)

ABSENT DEFENDANT, (vid attachments, chancery and judicial proceedings)

ABUSIVE LANGUAGE,

By negroes or mulattoes to white person, how punished,	180
-----------------------------------------------------------	-----

ACCESSARIES.

Who shall be deemed	50
---------------------	----

In crimes, committed by slaves, how punished	"
----------------------------------------------	---

Persons harboring and concealing felons, to be punished as,	50
----------------------------------------------------------------	----

ACCIDENT,

Acts committed by, not crimes	49
-------------------------------	----

ACCOUNT, Action of'

Limitation thereof	105
--------------------	-----

ACKNOWLEDGMENT, of deeds (see convey- ances) how proved and certified.

157, 158

Of relinquishment of dower	159
----------------------------	-----

ACTIONS,

Limitation of	104
---------------	-----

Compounding penal	65
-------------------	----

ACTS OF THE LEGISLATIVE COUNCIL.

Private, may be given in evidence without pleading	146
<i>Of other States</i> , when evidence	145
ADJOURNMENT , of courts	
In the absence of the Judge, by whom and how effected	27
Such adjournment not to cause discontinuance	"
ADJUTANT GENERAL , Assistant do.	
Adjutants of Regiments, (vid "Staff Militia")	
Their appointment and duties, 226, 227, 229, 233	
ADMINISTRATION , Letters of, and	
Testamentary,	
By what court granted,	125
From what county to issue,	
To what persons, husband or wife,	"
Next of kin,	"
Creditors or other fit person,	"
Publication thereof, how to be made,	"
Appraisers, to be appointed, their oath &c, 129, 130	
Debts &c against the estate, when barred,	137
Appeals from definitive orders &c of county courts in such cases, when and how allowed,	140
When to operate as a supersedeas,	"
Curator to be appointed, until administration granted,	"
Sheriff <i>ex officio</i> , to take possession of effects in certain cases, his duties,	"
In case of absence of the Judge, Clerk to dis- charge his duties in cases of Probate,	"
Final distribution of effects &c.	"
Administration sales, not liable to auction tax,	194
Effects of intestate, escheatable for defect of heirs,	138
If the heir should afterwards appear, how far refunded,	140
ADMINISTRATORS AND EXECUTORS ,	
(See administration, wills.)	
Their qualifications,	125
When minors, letter <i>ad interim</i> , to be granted,	126
Oath of office,	127
With the will annexed. Their oath,	"
Administrators to give bond in all cases,	"
Form and condition of,	"

May be required to surrender their letters,	128
<i>Pendente lite</i> , their duties,	"
Appraisement when signed by them may serve in lieu of an inventory,	130
Estate when insolvent, they shall deliver cer- tain articles to the widow and take her re- ceipt.	"
Such articles to be discounted out of her dower, should the estate prove solvent,	131
Inventories by, when to be filed,	"
How far evidence for or against them,	"
They shall sell perishable goods,	"
Proceeds thereof, how disposed of,	"
Other personal property to pay debts,	"
If testator direct that no sale or appraisement shall be made, then only so much property shall be sold as will pay debts,	132
Property sold, schedule of, within what time to be delivered,	"
Sale of lands directed by will, by whom to be made,	"
If personal estate be insufficient to pay debts, real estate may be sold,	133
Such sales do not affect dower,	"
Account of sales to be rendered,	"
Advertisement of the same,	"
Oath of administrator &c. in such cases,	"
Debts, when compelled to pay,	"
Estate not liable for costs,	"
Execution for debts, when permitted to issue,	"
They shall advertise for demands against es- tate,	133—4
Order of paying debts,	134
Devastavit by, their liability,	"
Mismanagement by, letters revoked,	"
They may be ordered to render accounts and give additional security,	"
Their bonds, how sued on,	135
Their securities how far liable,	"
Charges allowed them on settlement of ac- counts,	"
Their compensation,	"
May retain money of minors in their hands, on certain terms,	"
Interest, when they are liable for,	136

Settlement of their accounts, notice to be given,	136
May be summoned to appear and settle,	"
Legacies payment of, distribution when required to make,	137
Shall give public notice to creditors, legatees &c to exhibit their claims,	"
Their receipts, when binding on orphans and minors,	"
Escheat, cases of,	138
They shall be considered as Trustees for the Territory,	"
Where it is believed intestate died without heirs, their duty,	"
Where intestate left land and no heir appears, their duty,	139
Shall sell on a credit,	"
Shall execute conveyances,	"
And pay proceeds into the Treasury,	"
In case of insufficiency of personalty to pay debts and there be land in other counties, where no court is organized,	144
Court of an adjacent county may order sale,	"
Duty of Administrator selling under such power,	"
Letters of &c.	"
Clerk of court, to act as such, " <i>ex officio</i> " in certain cases,	"
Administrators &c. may submit any matter to arbitration,	192
In case of removal of, attachments may issue against estate of intestate &c.	164
With letters from other States, may sue out attachment,	"
When liable on special promises to pay, out of their own estates,	161
Administrator holding slaves and permitting them to hire themselves out, liable to fine,	179
AD QUOD DAMNUM.	
County court may grant said writs in certain cases,	214
ADULTERY.	
Husband living in open adultery, court may grant alimony to wife,	13
Of either party, cause for divorce,	11

Not, if by collusion,	1
Or by both parties,	"
Cohabitation after divorce, subjects parties to penalties of,	"
Punishment of adultery and fornication,	62
Second and repeated offences,	"
Prosecutions on account of, suspended by marriage of the parties,	"
Charge of, against female sex, actionable,	43
AGREEMENTS.	
In consideration of marriage, or not to be performed within a year, or upon a con- tract for the sale of lands, or of any uncer- tain interest therein, or lease thereof for more than one year, when valid the above cited cases,	161
For the sale of any property, may may be admitted to record,	160
AIDS-DE-CAMP.	
Of the Governor,	225
Of General officers,	"
ALACHUA COUNTY.	
Superior court of,	211
Boundaries of,	220
Regular terms of county court of,	223
Seat of justice for,	261
ALDERMEN.	
Mal practices by, how punished,	62
ALIAS, Writs.	
When to issue, on defendants removal,	42
ALIMONY.	
County courts to have jurisdiction in cases of	13
Application to be by way of bill in chancery,	"
Right to trial by Jury on issue,	"
Not to be granted in case of open adultery of the wife,	"
Effect of a decree on suit for,	"
In cases of divorce, court to provide alimony for wife,	12
ALLEN R. C. Resolution for relief of,	299
ALTERATION, fraudulent.	
Of Bonds &c. Judicial papers, proceedings, documents &c. how punished.	62
Altering land marks, how punished,	56

AMENDMENTS.

Of declarations and other pleadings,	23-39
--------------------------------------	-------

AMUSEMENTS, Public.

Prohibited on the sabbath, except in certain cities,	77
------------------------------------------------------	----

ANSWER, in Chancery.

Made in foreign countries how sworn to and evidenced,	85
-------------------------------------------------------	----

ANIMALS, Domestic (see crimes.)

Maiming or killing, how punished,	74
-----------------------------------	----

APPAREL.

Of widows and children of intestates, allowed to be retained by them,	130
-----------------------------------------------------------------------	-----

APPEALS.*From Justices courts.*

County courts to have appellate jurisdiction therein,	99
-------------------------------------------------------	----

No pleadings in writing required,	98
-----------------------------------	----

Directions of county courts thereon when final,	218
-------------------------------------------------	-----

A Judge not entitled to an appeal to his own court,	"
-----------------------------------------------------	---

Supersedeas, when to operate as,	"
----------------------------------	---

To county courts, when and how entered,	99
-----------------------------------------	----

Cost to be paid and security given,	"
-------------------------------------	---

Transcript of the proceedings to be sent up by the Justice,	"
-------------------------------------------------------------	---

And to be docketed by Clerk county court,	"
-------------------------------------------	---

Appeals, in cases of forcible entry and detainer,	155
---------------------------------------------------	-----

From County Courts.

How taken to the Superior Court,	215
----------------------------------	-----

When to operate as a supersedeas,	218
-----------------------------------	-----

When to be taken direct to the court of appeals,	213
--------------------------------------------------	-----

In Chancery cases.

May be taken from all final decrees to Superior court,	89
--------------------------------------------------------	----

Shall operate as a supersedeas	"
--------------------------------	---

How to be taken	89, 90
-----------------	--------

Notice to the adverse party,	90
------------------------------	----

Such proceedings to be had and done within what period,	"
---------------------------------------------------------	---

Duty of the Clerk of the Court appealed from,	"
-----------------------------------------------	---

Duty of Clerk Superior Court,	"
-------------------------------	---

<i>In probate cases.</i>	
When may be taken,	140
Security required thereon as in other cases,	"
Shall operate as a supersedeas,	"
<i>To Court of Appeals.</i>	
How, and when to be entered in Superior court,	44
To operate as a supersedeas, when,	45, 46
Appellant to execute recognizance,	"
Condition of the same,	"
Court may allow time for its execution,	"
Appellant to demand copy of proceedings below and enter the same in the court above,	"
In default thereof, appeal to be annulled &c.	"
Decision on said appeals,	46
Judgment thereon may be remitted to the court below for execution,	"
Or Court of appeals may itself awards it,	"
APPEALS, Court of (vid appeals)	
Its powers, may issue certain mandatory writs to Inferior Courts,	47
Vested with a controlling power over Superior courts,	"
Shall make rules of practice for itself and Superior Courts,	48
APPEARANCE DOCKET, term &c	
Calling over, effect of,	32
APPRAISEMENT,	
Of administration effects, how made out,	130
Articles to be exempted therefrom,	"
How far evidence for and against Administrators,	131
APPRAISERS.	
To be appointed by courts, on granting letters testamentary,	129
Their oath of office and duties,	129-30
Compensation,	130
Appraisers under the act concerning executions,	114
APPRENTICES.	
Their complaints of ill treatment, how determined,	135
Employment of them in labor on the sabbath prohibited,	76
APPROVERS.	
Prohibited in all cases,	122

ARBITRATION AND AWARDS.

Controversies and matters in dispute may be submitted to arbitration,	190
May be made a rule of court,	"
Manner of doing so,	"
Awards, for what causes set aside,	191
Motion for &c how made,	"
Testimony in support of motion,	"
Awards, performance of how enforced,	"
Arbitrators to be sworn,	"
May compel the attendance of witnesses,	192
Guardians and Executors &c. may refer to arbitration,	"
Party may also seek relief at law, when award is not made a rule of court,	"
Fees of arbitrators,	"
Of clerk of court,	"
Of witnesses,	"
Arbitration on matters within the jurisdiction of a Justice,	"

ARCHIVES.

Keepers of the public archives, fees of,	169
------------------------------------------	-----

ARREST. (see crimes, criminals &c.)

No minister of religion, while officiating, liable to arrest for any civil cause,	37
Penalty for violating above provision,	"
Service of civil process on the sabbath prohibited, except in certain cases,	38

ARSON. (see crimes)

Definition of,	58
Punishment of, if committed a city &c.	"
If not in a city &c.	"
When producing death,	"
By slaves and their accessories, how punished,	184

ASSAULTS.

Definition of and punishment,	53
Upon sheriff or other officer executing process ,	64
Such officers committing, under color of office,	"
With intent to murder, how punished,	53
By slaves on white person,	184
With intent to commit rape, how punished,	53
By slaves, negroes or mulattoes, how	184
Actions for, limitation of	105

ASSAULT AND BATTERIES.	
Definition of and punishment,	53
Actions for, limitation of,	105
ASSEMBLIES. turbulent &c.	
What constitutes and how punished,	66
Of slaves, negroes &c. unlawful, how punished,	177
ASSESSOR OF TAXES. (see taxes,)	
How appointed, bond &c.	237
Duty of, in making up tax books,	240
ASSETS (vid administration,)	
ASSIGNEES, assignment,	
Of bonds, bills notes &c.	35
Consideration of, when necessary to be proved,	"
ASSUMPSIT.	
Limitation of action of	105
AATTACHMENTS, foreign &c.	
By whom granted and how levied,	162
Oath of plaintiff,	"
Bond to be given and condition thereof,	163
Process of garnishment, when and how served,	"
Judgment on garnishee's answer,	"
Replevin of property attached,	164
Effect of levy,	"
Lien created thereby,	"
Property attached to remain in custody of officer,	"
If of a perishable nature may be sold under order,	"
All bonds under this act to be filed in clerk's office,	"
If no replevy, notice of attachment to be published,	"
Execution on judgment in attachment, on what terms issued,	165
Saving in favor of infants, <i>femes court</i> , lunatics &c.	"
Against absent Ex'or or Adm'rs,	"
Persons acting under probate from other states permitted to sue out attachment in this Territory,	"
<i>Declaration</i> and pleading to be regulated by the same rules as ordinary suits at law,	166

Property attached and claimed by a stranger, proceedings thereon,	118
Garnishee process on judgments, when issued,	112
<i>In Justices courts</i> (see justices)	
ATTORNEYS , For the Territory,	
Their fees for prosecuting,	172
Indictments to be signed by them,	122
<i>At law</i> , how admitted to practice,	14
Applicants for examination to produce certificate of age and respectability,	"
How examined,	"
Oath of admission,	15
Certain officers of the Territory prohibited from practising,	"
Attorneys failing to pay over money collected, penalty for.	"
Answerable in certain cases for costs,	29
Appearance by, equivalent to the general issue,	33
ATTORNEIES , Powers of,	
To make conveyances,	
How acknowledged and proved,	160
To be recorded,	"
To confess judgment before suit brought, void,	43
AUDITA QUERELA , writs of,	
May be issued by court of Appeals,	47
AUCTIONEERS and AUCTIONS.	
Auctioneers to be appointed in each county,	193
Shall execute bond, condition thereof,	"
Their duties, shall keep an account of property sold,	194
And make quarterly returns thereof to the Treasurer of the Territory,	"
Penalty for selling at auction in violation of this act,	"
Auction tax, certain sales by Executors, or under legal process &c. exempted from,	"
AWARDS. (See arbitration and awards.)	
BAIL.	
<i>In civil cases.</i>	
No person required to give bail for appearance to any original writ,	28
<i>In Criminal cases.</i>	
Who may admit to bail,	120-121

Bail may be required on suits for infraction of penal statutes,	123
Falsey acknowledging bail &c. how punished.	63
BAKERS.	
Selling unwholsome bread, how punished,	70
Selling bread under the assize,	72
BANKS.	
Notes, bills, checks of, drafts on &c. forging, how punished,	58
Causing the same to be done, aiding and abetting,	"
Uttering, passing or tendering the same in payment,	"
Having them in possession, or bankpaper, plates, types, &c.	59
<i>Bank of Florida.</i>	
Established at Tallahassee, capital stock thereof,	265
Subscription for, to be opened in certain places,	"
Commissioners appointed,	"
Subscriptions to be for the use of person sub- scribing,	"
Stockholders incorporated, name and style and powers,	266
Subscriptions, how paid in,	267
Directors for mother bank, how appointed,	"
For offices of discount and deposit, how,	"
Qualification of Stockholder to entitle him to vote,	268
Money received at Branches to be paid to principal Bank,	"
Bank, when to go into operation,	269
Officers of the Bank, by whom appointed,	"
Rules for the government of the bank,	"
Number of votes each stockholder entitled to	"
Director, who may be,	"
Compensation to President,	270
Quorum of Directors,	"
Cashier to give bond &c.	"
Lands which bank may hold,	"
Amount of notes which may be issued,	"
In case of excess, remedy,	"
Bank shall not purchase stock,	271
Rate of interest,	"
Loans, transfer of stock &c.	"

Bills &c. of, how transferable,	271
Dividends, when and how made,	272
Officers of discount and deposit,	"
Annual statement to Executive,	"
Minutes of proceedings of Directors,	273
President and Cashier purchasing public stocks, penalty,	"
Penalty for trading in Merchandise,	273
Bills of, received in payment of public debts	"
Amount of stock to be subscribed by the Territory,	"
Denomination of notes,	274
Paper, when negotiable,	"
BARGAIN and SALE.	
By deed of bargain and sale, possession shall be transferred, without livery of seizin,	161
BARRATORS, Common.	
On conviction of being, how punished,	66
If a lawyer, to be disqualified,	"
BATTALIONS. (See militia.)	
Divisions of militia into,	225-228
Muster of,	228-229
BATTERY. (See assault and battery.)	
BEACONS or BUOYS.	
Destroying or removing, how punished,	72
BEELER.	
Sarah P. divorced from her husband,	276
BENEFIT OF CLERGY.	
The doctrine of, not admitted in the Territory,	78
BIGAMY.	
Punishment of,	68
Conviction of, effect upon the issue,	"
When the long absence of one partner shall be cause of acquittal,	"
BILLS OF EXCEPTION.	
Any court refusing to sign, when presented, said bill may be signed by others and made part of the record,	43
BILLS OF EXCHANGE.	
Drawing in fictitious name, forgery,	60
Forging, counterfeiting of &c. how punished,	59
Passing such counterfeit, &c.	"
BILLS OF SALE.	
Bills of sale and other transfers of property to be recorded,	157

BILLIARD TABLES.

Playing and betting at, persons guilty of, how punished,

69

BLANKS.

In commissions to take testimony may be left for commissioners, but not for witnesses names,

116

BOATS.

Found adrift, how proceeded against,

197

Burning or destroying &c. how punished,

74

BONDS.

Stealing of,

55

Destroying, burning &c. belonging to the public or to a corporation,

56

Forging &c. how punished,

58

Plea denying Signature to, how admitted,

33-35

When necessary for Plaintiff to prove execution or consideration of,

"

May be assigned, rights of assignee,

35

Consideration of assignments,

"

Original or copy of, to be filed with Declaration,

"

BOOK DEBTS,

Action on, limitation of,

105

BOOKS.

Courts may require them to be produced in evidence,

146

BOUNDARIES.

Of counties,

6-219

Of lands, destroying, altering or removing, how punished,

56

BREACHES of the PEACE.

Offences, not enumerated, how punished,

53

BREAKING &c. into HOUSES. (See burglary)

Not dwelling houses, and stealing therefrom or with intent to steal,

56

BRIBERY.

Giving or offering a bribe to a Judge, Justice or other public officer, referee or arbitrator, how punished,

62

BRIDGES.

Destroying bridges, how punished,

73

Obstructing navigable streams by the erection of, how punished,

77

Keepers of, passing slaves over without permission from their owners &c.	184
Militia going to or returning from muster, not liable to pay toll at,	225
BRIGADES..	
Militia organized into two brigades,	225
How officered,	"
BRIGADE STAFF.	
How composed,	225
By whom appointed,	226
BRIGADIER GENERAL.	
How appointed and his duties,	224
BURGLARY, BURGLARS. (See crimes.)	
Definition and punishment of,	54
Compounding crime of,	65
Burglars concealing or harboring of,	"
Burglary by slaves, how punished,	188
BURNING over LANDS, &c.	
Wilfully and maliciously, how punished,	73
At what times permitted, on notice given,	"
BUTCHERS.	
Selling unwholesome provisions, penalty,	70
BUYING and SELLING.	
From or to slaves &c without license from owners, how punished,	75
On the sabbath, how prohibited and punished,	76
BYSTANDERS.	
Juries may be composed of in certain cases, 153,	217
On criminal trials,	122
CANALS.	
Ocklocknee and Lake Jackson Canal Company incorporated,	280
Steam Boat Canal near the Atlantic Coast, an act to incorporate a company to open,	286
CAPIAS, writs of (see judicial proceedings)	
<i>Ad satisficiendum</i> , not allowed in any civil case,	39, 110
<i>Ad respondendum</i> , to be called the original,	28
When and how served,	"
Def't not required to give bail on,	"
In criminal cases. Persons indicted for felony to be attached by,	121
CARTER Mary, and her husband, divorced	277

CASE , action on the,	
County court to have concurrent jurisdiction with the Superior Courts in such actions,	213
Limitation of,	105
CASHIERING , (see militia)	
Sentence thereof, when to be imposed,	227
CATTLE . (see "crimes" "taxes.")	
Stealing cattle how punished,	55
Altering marks or brands of,	"
Maiming or killing maliciously,	74
Enticing or driving away from their range	"
CERTIORARI , Writs of,	
From Superior to County courts,	40
By clerks of superior and county courts, how returnable,	"
Cases brought up to said courts by,	
To be tried on the record sent up,	"
Errors when to be assigned and filed,	"
When to operate as a supersedeas,	"
CHALLENGES , of Jurors,	
In criminal cases, of the array,	122
Peremptory,	"
In civil cases, peremptory	39
For cause,	"
CHANCERY ,	
Application for divorce, and alimony to be in	11
<i>Ne exeat</i> , when granted,	13
Temporary absence of deft no breach of bond,	79
Power of security over principal,	80
Injunction, <i>subpoena</i> or <i>ne exeat</i> , to be granted only on bill filed,	"
To stay proceedings at law, notice to be given to adverse party,	81
Security on injunction,	"
Judgment against security on dissolution of,	"
Testimony, to be taken on interrogatories,	"
Court of Chancery always open,	"
Form of <i>subpoena</i> ,	"
How served,	82
Duty of officer serving the same,	"
Return day for process,	"
If process be not served,	83

Service by publication when defendant resides in the Territory,	83
When he resides out of the Territory,	84
Or out of the United States,	"
Return of process executed,	"
When a bill may be taken <i>pro confesso</i> ,	"
Further time to answer, when granted, To demur, plead &c.	85
General replication, or exceptions to def'ts answer to be put in,	"
Before whom an answer may be sworn to,	"
Amendments, when and how made,	"
If plea or demurrer be overruled, no other plea can be put in,	"
Plaintiff may set down plea &c for argument,	86
Rule against defendant in case of insufficient answer,	"
Rules to plead, answer &c.	"
Commissions to take testimony <i>de bene esse</i> ,	87
Subpoenas for witnesses,	"
Commissionis to take testimony out of the Territory, when and how granted and to whom directed,	"
Notice of interrogatories to be given to ad- verse party,	88
Injunctions to stay proceedings at law, after verdict or inquest of Jurors' how issued,	"
Bond and security to be given,	"
Final decrees, how and when made up,	89
Effect of decree,	"
Petition for re-hearing, how and when made,	"
Appeal from the county court, how taken,	"
To operate as a supersedeas,	"
If the decree direct the payment of money, bond and security to be given,	90
Condition thereof,	"
Duty of the Clerk of the court,	"
Clerk of county court to send up pleadings &c.	"
Clerk of Superior court to enter appeal,	"
Rules of practice in Equity,	91
Time for filing cross interrogations, may be extended, on cause shewn,	"
Previous to injunction to stay proceedings, concession of judgment and release of er-	"

rors at law, shall be made,	91
CHEATS and CHEATING.	
Common cheat, who deemed to be,	71
Punishment of,	72
Cheating in packing cotton &c. how punished,	73
Other cases of cheating and deceit,	"
CHILDREN.	
<i>Of intestates</i> , allowed to have certain articles of furniture &c. for maintenance,	130
Minors, money belonging to, how disposed of	135
Fathers may appoint guardians, by will for their children,	141
Not rendered illegitimate by divorce of par- ents in certain cases,	11
In what cases, illegitimate,	"
Court to take order for their maintenance,	12
CHIPOLA RIVER.	
Declared a navigable stream &c.	4
CHOCTAWHATCHIE RIVER.	
Pitmans' ferry over,	274
CLAIMS.	
<i>To property levied on.</i>	
How tried and determined,	113
Officer levying, to take security and return claim to court,	"
Issue thereon, oath of the Jury,	"
Damages allowed in certain cases,	"
Plaintiff may dismiss levy,	"
CLERGY, Benefit of.	
The doctrine of, exploded,	78
CLERGYMEN.	
Not liable to arrest while performing service,	37
Penalty on, for marrying persons without li- cense,	18
Shall transmit to clerks of county, certifi- cates of marriage &c.	18-19
CLERKS of COURTS	
And their deputies, prohibited from practis- ing law,	15
Mal practices by, how punished,	42
Their duties with respect to keeping papers &c.	41
Not to permit papers filed, to be withdrawn,	"
Records of causes and dockets, to be kept by,	"

How punished for extortion, &c.	42-173
Their duty respecting appeals and writs of error,	47
Exempted from performing militia duty,	225
<i>Of County Court.</i>	
Their appointment and duties,	216
Oath of office, bond &c.	"
Term of office,	"
Duty respecting estrays,	195
If guilty of felony to be removed,	216
Their fees of office,	167
<i>of Superior Courts.</i>	
Writs of error to be issued by,	40
Their appointment and duties in certain counties,	209 to 212
Their fees of office,	167
<i>Of Court of Appeals.</i>	
His duties,	45--7
Fees of office,	166
CLERK TO THE EXECUTIVE,	
Appointment authorized,	262
Term of office and compensation,	"
COHABITATION,	
After divorce, punishment for,	12
COIN.	
Counterfeiting, forging &c. how punished	58
Uttering or tendering the same in payment,	"
COLONELS of Militia,	
Their appointment, duties &c.	226-7
COMMISSIONERS, Commissions,	
To take testimony,	
In chancery,	87--8
In courts of common law,	115-16
To allot dower,	17
Commissions of militia officers,	226
For the town of Quincy,	292
COMPANIES Militia,	
Organization and discipline of, officers of	226--230
CONFESsION.	
Of judgment, powers of attorney to confess before suit brought, void,	43
Not to be set aside for omission or defect,	40
Bills in chancery when taken as confessed,	85
CONGREGATION	
Disturbance of religious, how punished,	75

CONSANGUINITY.

When parties are within prohibited degrees, divorce to be decreed,	"
CONSERVATORS of the PEACE, (see justice of the peace.)	
Judges of the Superior courts, <i>ex officio</i> , to be,	120
" " County Courts, vested with power of Justices,	213

CONSIDERATION.

Of bonds &c. when necessary to be proved,	35
Of assignment of bonds &c. not necessary to be averred or proved,	"

CONSPIRACY.

<i>Of slaves,</i>	
To make revolt &c. or to murder white,	183
Conspiracy, falsely and maliciously to per- secute any person.	65

CONSTABLES.

Their appointment, oath of office, bond &c.	101
Fees of office,	171
Duties, general enumeration of,	101
Shall prosecute free negroes &c. keeping arms,	177
Failing to pay over monies collected,	101
Failing to collect monies &c. how proceeded against,	102
Shall deposit all official papers in court,	103
In case of death &c Executors subject to the same rule,	"
Duration of office,	"

CONSULS and Commercial Agents.

Authentication of deeds by in foreign coun- tries,	158-162
-------------------------------------------------------	---------

CONTEMPTS OF COURTS.

Superior and County courts empowered to punish for,	27
Justice of the Peace, when empowered to punish for,	97
Printer refusing to give up the authors of publications, liable for,	67

CONTINUANCE of CAUSES.

After amendment of declaration, when al- lowed,	39
----------------------------------------------------	----

On failure of Superior court to meet, all causes to stand continued,	27
CONTRACTS.	
What contracts must be in writing,	161
How and when to be recovered,	"
CONVEYANCE, Deeds of,	
<i>Of freehold interests</i> and certain terms in land &c only effectual by deed in writing	156
So surrenders of the same,	"
So trusts therein, and assignment of,	157
Recording of, mortgages of personal property, when rec'd.	158
All conveyances &c. of real property to be recorded,	157
Or of any transfer or interest therein,	"
So powers of attorney to convey,	"
Execution and acknowledgment of, how made,	"
Proof of, when made out of the Territory, when made out of the United States,	158
By power of attorney,	160
By bargain and sale, lease and release &c. possession transferred without livery of seizin,	161
Of County lands by County courts,	214
COPIES.	
Of bonds &c upon which suits are brought to be filed,	35
Of laws of any State or Territory, when evidence,	145
From books and records of Treasurer's office made evidence,	"
Of wills duly certified,	129
CORONER.	
Process against Marshal to be served by him,	30
His duty to attend in place of Marshal, Sheriff &c.	31
His compensation thereof,	"
His fees in other cases,	171
Mal practice by, how punished,	62
COSTS.	
Limitation on amount of, in Justices courts,	173
Penalty on Justice or Constable asking more,	"
Non resident plaintiffs to enter security for,	28

Costs to be allowed on judgments for plaintiff,	44
For defendant,	"
Executors and Administrators, when liable for costs,	"
Testators &c estate not liable for, on judgments against Executors &c.	
Prosecuting Attorneys fees to be charged in bill of costs,	172
In certain cases of Appeal, costs to be paid &c,	49-5
On reversal of judgment how recovered back,	40
Owner of slave, when not liable for costs of conviction,	189
COUNTERFEITING and FORGING.	
<i>Public securities, evidences, Treasury warrants &c.</i>	57
<i>Bonds, deeds, wills &c.</i>	"
Passing or attempting to pass, such counterfeited papers,	"
The <i>great seal</i> or any other public seal,	60
Or affixing falsely any seal to any writings,	"
The <i>public coin</i> , or aiding &c. in the same,	58
Passing or tendering the same in payment,	"
<i>Bank bills</i> , drafts or checks,	"
Or alteration of genuine bills,	"
Or paying or tendering such forged bills,	59
Having the same in possession with fraudulent intention,	"
Or bank note paper, plates or types,	"
<i>Drafts</i> , bills of exchange on individuals &c.	"
Or passing or tendering in payment,	"
Drawing bills of Exchange or notes in fictitious name,	60
Or signing the same in a false character,	"
Counterfeit letter obtaining money or effects, by means of, how punished,	61
COUNTS.	
When there are faulty counts in a declaration, verdict shall be good, if there be one good count,	40
COUNTIES,	
Boundaries of, established,	219
Time of holding county courts,	"
COURTS.	
Courts of Appeals (see Appeals, court of)	

Superior Court.

Powers, jurisdiction &c (see judicial proceedings,)	27
What shall be a contempt of,	"
May punish for by fine and imprisonment,	"
How to be adjourned, Judge not attending,	"
Suits therein, to be brought in the county where defendant resides,	29
Where two defendants residing in different counties,	"
Marshal to attend as executive officer of,	31
Said courts to be attended by district attorney,	212
Judge of one Superior court, may officiate the district of another, in certain cases,	"
Judge thereof, to provide suitable seals,	173
Appellate jurisdiction of,	"
COUNTY COURTS. (see judicial proceedings,)	
Organized, Judge, term of office,	213
Oath of Judge,	"
Powers of	"
To be courts of record,	"
Exclusive jurisdiction,	"
To have concurrent jurisdiction with Superior court,	"
May award writs of mandamus, certiorari and prohibition to justices courts'	"
<i>Criminal jurisdiction of,</i>	
None, except where Judge of Superior court is a party,	"
Appeals from, when taken direct to court of appeals,	"
Cognizance of all matters relative to roads, bridges, ferries &c.	214
May grant writs of <i>ad quod damnum</i> ,	"
Court for transacting county business, how formed,	"
Shall protect the county lands,	"
Fee to Judge on granting letters of administration &c.	"
Constituted courts of Probate,	215
May appoint and displace Guardians for infants, idiots and lunatics,	"
Powers of Judge in vacation in relation thereto	"

Office of Judge no disqualification to practice law in superior court,	218
Appeals to Superior court, how taken,	"
Constituted offices of original record,	"
Power to tax free people of color,	"
Collection of county taxes,	"
Clerks and Sheriffs of,	
Term of office,	216
Convicted of felony to be removed,	"
Appointment of clerk.	"
His duty, bond, and term of office,	"
Appointment of Sheriff,	"
His bond, condition thereof,	"
Contempts, county courts authorized to pun- ish for,	"
Appeal from decision of, bill of exceptions &c.	217
Writ of error to Superior court,	"
When to operate as a supersedeas,	218
Appeals from Justices courts, decisions of county court thereon, when final,	"
To be composed of three Judges,	"
Juries for, (see juries.)	
Duty of Judges of, in relation to the revenue, (see Taxes)	336
Duty of, in relation to elections (see elec- tions, and Delegate to Congress,)	248-253.
COURTS MARTIAL.	
Special, for trial of officers on charges alleged,	226
Company courts martial, when held and how composed,	232
Regimental, how detailed,	233
President thereof,	"
Shall have appellate jurisdiction over com- pany courts,	"
Fines imposed by, how collected,	"
<i>Justices court</i> (see Justices of the Peace.)	
COVENANTS.	
Respecting lands, (see conveyances.)	156
CRANE AMBROSE, for the Relief of	263-
CRIMES and MISDEMEANORS.	
Definition of,	48
Who are considered of sound mind,	"
Inciting infants, idiots &c. to crime,	49

<i>Feme covert, acting under the coercion of her husband,</i>	49
<i>Drunkenness no excuse, unless occasioned by fraud,</i>	"
<i>In such case, the person causing the same to be deemed guilty,</i>	"
<i>Accident or misfortune, crime not imputable to</i>	"
<i>Threats, coercion &c.</i>	
Persons acting under influence of, not guilty,	"
Slaves acting under threats of master, not deemed guilty of, in cases not capital,	50
<i>Accessory, definition of,</i>	"
Crimes &c. enumerated, (see them under appropriate heads.)	
Against public justice (not enumerated) how punished,	66
Against the public peace (not enumerated) how punished,	67
Against the public Trade (not enumerated) how punished,	73
Against the public morals (not enumerated) how punished,	71
Of malicious and fraudulent mischief (not enumerated) how punished,	74
Harboring or concealing felons &c. knowingly, to be decreed and punished as accessories,	65
Compounding felonies and crimes, how punished,	"
Death, punishment of, how inflicted,	78
Whipping, pillory &c. how,	"
Prosecutions for crimes (not felonies) limitation of,	123
By slaves &c. (see slaves,)	174
CRIMINALS.	
<i>Apprehension of,</i>	
On complaint Justice of the Peace to issue warrant for, affidavit in such case,	119
Nature of the warrant,	"
Recognizance to be taken or offender committed,	120
Witnesses to be recognized to appear,	"
In cases not bailable, prisoner to be committed	"
Nature of the mittimus,	"
Judges of Superior courts <i>ex officio</i> justices	

of the peace, and may admit to bail when refused by a justice,	120
'Two justices possess the same power to bail, Papers relating to, to be kept safely and distinct from others,	121
To be delivered to public prosecutor,	120
When no jail in the county, offenders may be committed to jail of next county,	121
"	"
Prisoner entitled to have witnesses subpoenaed &c.	"
<i>Trial of</i> , after indictment for felony, how to be arrested,	"
In custody, to be tried first term,	"
Prisoner applying for trial first term, to be bailed unless indicted, and exceptions,	122
So applying, if not indicted second term, to be discharged from imprisonment,	"
If not tried third term, to be forever discharged,	"
Entitled to a copy of the indictment &c.	"
<i>Venire</i> how composed, talesmen to be house-keepers,	"
Challenges, to the array and peremptory,	"
Indictment how to be signed and endorsed	"
<i>Approvers</i> not admitted in any case,	122
Duty of Grand Jury respecting,	"
Change of venue on &c. (see <i>venue</i> .)	78
<i>Crosby</i> , Samuel, authorised to establish a ferry over the river Wakulla,	260
CRUELTY.	
To prisoner by jailors,	62
To slaves,	183
CURATOR.	
To be appointed in certain cases, for Intestates' effects,	140
CUSTODY of PRISONERS.	
Jailor guilty of too great duress or cruelty,	62
Rescue of prisoners from custody,	63
Aiding prisoners to escape from,	"
Persons escaping from,	64
Sheriff or other officer permitting escape, or refusing to receive into custody, persons committed,	"
DAMS,	
Destroying or breaking down, how punished	73

Obstructing navigation by means of, how punished,	77
DECEITFUL and FRAUDULENT Practices.	
How punished,	72
DECREE. (see chancery.)	
Not to be served on Sunday, except in special cases,	38
On any definitive decree of county court respecting administration, an appeal will lie,	140
Appeal to be entered as in other cases, effect of,	"
DEEDS. (see conveyances, recording.)	
Stealing of, how punished,	55
Cancelling, burning &c. how punished,	"
Forging, counterfeiting or altering &c.	57
Or, altering or publishing the same, knowing it to be false. Punishment,	"
Any public officer, altering, destroying or falsifying, how punished,	62
Persons aiding or causing them to be so,	"
DELEGATE to CONGRESS.	
<i>Election of,</i>	
Judge of county court to appoint inspectors, and designate places of,	248
On failure of Judges, Clerk to appoint,	249
Clerks of election,	"
Oath of inspector and clerk,	"
Time of election,	"
To be by ballots,	"
Time of opening and closing polls,	"
Ballots to be rejected,	"
Duty of clerks of election,	250
Poll Book, form thereof,	"
Returns of election to be made to Governor,	"
Form of certificate to accompany them,	"
Compensation of inspectors and Clerk,	251
Governor to make proclamation of election,	"
To order a new election in certain cases,	"
Qualification of voters &c.	252
Mal practices of inspectors or clerk, how punished,	"
Expenses of election, how paid &c.	253
DEMURRER. (see chancery, judicial proceedings.)	
<i>In Chancery,</i>	85-86
<i>At law,</i> being overruled, other pleas allowed,	34

When to be filed, notice of,	32
When to be argued,	"
Not to be considered as an admission of the facts of the plea, demurred to,	34
Nor to deprive party demurring of any defence,	"
DEPOSITIONS.	
<i>De bene esse</i> , when to be taken in chancery,	87
Notice to be given to adverse party,	"
Commissions in chancery, how issued, executed and returned,	"
Depositions therein to be taken upon interrogatories,	87-88
And in same mode as at law,	88
<i>In courts generally,</i>	
Depositions <i>de bene esse</i> may be taken in certain specified cases,	117
To prove wills,	118
How taken and before whom,	"
How certified and returned,	"
Effect thereof,	"
Party failing to take deposition after notice, costs allowed to adverse party,	"
Taken in foreign countries, how certified,	146
Of witnesses, when taken by commission,	115
Commission, how obtained, nature and form of,	116
Blanks may be left for commissioners, but not for witnesses names,	"
Commision, how to be returned to court,	117
To be sealed up and directed by commissioners,	"
How to be opened in court,	"
BETINUE.	
Actions of, limitation of,	105
DISORDERLY HOUSE.	
Keeping of, how punished,	69
DISTRIBUTION.	
<i>Of Intestates effects.</i>	
To be made according to the provision of the law of descents,	140
Final distribution, when to be made,	"
DISTILLER.	
Selling pernicious or adulterated liquors, how punished,	70

DIVORCE. (see Alimony. Adultery.)	
Jurisdiction in cases of, vested in Superior courts,	11
Persons applying for, to be a resident,	4-11
Proceedings, as in cases of chancery, except that the answer of the defendant be not on oath,	"
From the bond of marriage, when to be decreed,	"
Not in case of collusion,	12
From bed and board, for what cause,	"
Cohabitation after, penalty on,	12
When one party is non-resident, proceedings,	"
In cases of, court to take order for maintenance of children,	"
To provide alimony for wife,	"
Alimony not allowed the wife in case of open adultery,	13
DOCUMENTS.	
Falsification or destruction of, by certain officers,	62
Withholding by officers, after removal &c.	31-63
DOWER.	
In cases of intestacy ; or when the widow is not satisfied with the provisions by will, to be decreed,	15
<i>In lands &c.</i>	
What portion to be allowed,	16
Dwelling house on, to be included in her share except in certain cases,	"
<i>In personal estate.</i>	
If no children or not more than one, what portion,	16
If more than one child, what,	"
<i>In slaves,</i>	
To have only a life interest,	"
Dower in lands, how assigned,	"
Petition for, to Superior and county courts, Sheriff shall summon commissioners to allot, So of personal property,	17
Proceedings on her petition to be summary,	"
Notice of, to be given,	"
Until dower assigned, widow may hold dwelling house free from rent,	"
Shall have one years provisions assigned.	18

Dower in land, how extinguished,	159
Renunciation of dower, how made and proved	"
DRAFTS.	
<i>On Banks.</i> (see Banks.)	
<i>On Treasury,</i>	
Forging, altering &c. or causing it to be done, or tendering the same in payment,	57
<i>On individuals, companies &c.</i>	
Forging, altering &c. or paying or tendering on payment,	59
DRAGS, &c. across streams.	
To the injury or obstruction of navigation or of fish, punishment for placing,	77
DRUNKENNESS. (see crimes.)	
No excuse for crimes,	49
DUVAL COUNTY.	
Superior court for,	210
Jurisdiction of,	"
Boundaries of,	220
County court of, time and place of holding,	223
ELECTIONS and ELECTION DISTRICTS.	
Of Delegate to Congress, (see Delegate &c.)	
Of members of Legislative Council.	
Territory divided into thirteen election dis- tricts,	253
Each district entitled to one member,	254
Members, qualification of,	"
Persons ineligible,	"
County court to appoint Inspectors and desig- nate places of,	"
Clerk to be appointed,	255
Oath of Inspector and Clerk,	"
Rules for the government of the election,	"
Polls, when to be opened and closed,	"
To be by ballot,	"
Certain ballots to be rejected,	"
Return to be made to the Governor,	"
Form of certificate to be attached thereto,	256
Qualification of electors,	"
Penalty for voting twice,	"
Governor to make proclamation of election,	"
<i>Prima facie</i> evidence thereof,	"
Contested elections, how to be proceeded with,	256-257
Time of election,	257
Jurisdiction of Walton and Duval counties,	"
Secretary to report copy of returns,	"

EMBEZZLING.

Of money or effects from any office of the Territory, or of a corporation, by an officer thereof, how punished,	56.
-----------------------------------------------------------------------------------------------------------------	-----

Any Judge or other officer embezzling papers, &c. how punished,	62.
-----------------------------------------------------------------	-----

Any person causing said offence to be committed, how punished,	“
----------------------------------------------------------------	---

EMBRACERY.

Definition and punishment of,	68
-------------------------------	----

EQUITY. (see Chancery.)**ERROR,** Writs of.*From court of appeals.*

How to be tested,	46
-------------------	----

When to operate as a supersedeas,	“
-----------------------------------	---

Assignment of errors when to be filed,	47
----------------------------------------	----

Scire facias to be issued by clerk,	“
-------------------------------------	---

When returnable and how served,	“
---------------------------------	---

Within what time writs of error to be sued out,	“
-------------------------------------------------	---

When to issue direct to county court,	213
---------------------------------------	-----

From Superior courts.

Judges thereof may award writs of error,	40
------------------------------------------	----

Which shall be issued by the clerk,	“
-------------------------------------	---

When to operate as a supersedeas,	“
-----------------------------------	---

To be taken in the same manner as in the court of appeals,	“
------------------------------------------------------------	---

To be tried on the record sent up,	“
------------------------------------	---

Errors, when to be assigned and filed,	“
----------------------------------------	---

Cases, when for trial,	“
------------------------	---

EVIDENCE.

Certified copies of wills, to be,	129
-----------------------------------	-----

Laws of any State or Territory printed by authority,	145
------------------------------------------------------	-----

Private acts of the Legislative Council, to be admitted without pleading,	146
---------------------------------------------------------------------------	-----

Transcripts from the books and records of the Treasury office made evidence,	145
------------------------------------------------------------------------------	-----

Oath to bill, answer &c. in Chancery made in foreign countries, when and how evidenced,	“
-----------------------------------------------------------------------------------------	---

Depositions there made,	“
-------------------------	---

<i>Books, papers &c.</i>	
------------------------------	--

Production of, in evidence how compelled,	146
-------------------------------------------	-----

<i>In Justices courts,</i> (see Justices.)	
--------------------------------------------	--

Nature of the evidence to be admitted there,	07
----------------------------------------------	----

By negroes, slaves &c. (see slaves.)		
When and how to be admitted,		178
Certified copy of assessor and tax collectors bond,		237
ESCAMBIA COUNTY.		
Boundaries of,		221
County court of, time of holding,		222
ESTRAYS, Marks and Brands.		
Stone horses and asses not to run at large,		197
May be taken up, proceedings thereon,	197-198	
Marks and brands to be recorded in clerk's office county court,		194
Persons so recording, entitled to presumption in their favor, in case of disputed property,	195	
Oldest record of, to have the preference,	"	
Clerks duty to record, his fees,	"	
Boat or vessel found adrift, how proceeded against,	197	
Altering marks and brands, how punished,	"	
<i>Estrays</i> , who may take up and where,	195	
Proceedings thereon before and by justices,	"	
Oath of person taking up estrays,	"	
Description of the animal to be taken and published,	196	
Justice of the Peace, his duty and compensation,	"	
Clerk of county court, his duty &c.	"	
Sale of estrays and proceeds thereof, how disposed of,	"	
Claim by owner of, within what time allowed,	"	
Maliciously taking up cattle as estrays,	197	
What shall be considered as estrays,	"	
ESCHEATS. (see administration. Lands.)		
Cases of,		138
EXCEPTIONS.		
Bills of. (see bills of exception,) To sufficiency of answer, (see Chancery,)	43	86
EXECUTIONS. Writs of.		
In attachment proceedings, (see attachment,) Sales under, at common law, or in chancery not subject to auction tax,	165	
Nor by any officer under legal process,	"	
<i>Of ad satisfaciendum.</i>		
No such writ allowed in any civil action,	39-110	

Officer facias.

When and how issued, attested and returned,	108-9
When to issue <i>instanter</i> ,	108
How directed and when returnable,	109
Alias writ when issued,	"
How signed, returned, force and effect of,	"
How levied,	109-10
Sales of goods under; how advertised and levied,	110
Sales of lands or slaves, how,	"
Replevin of property levied on,	"
Manner of sale of lands under,	110-11
Officer selling under, to make conveyance,	111
If levy be not made in time for sale, <i>venditioni exponas</i> to issue,	"
Property, how bound by Judgment,	112
Advertisements of sales under this act, what to contain,	114
<i>Property exempt from execution.</i>	
Cert.: in part of household furniture,	"
How selected,	"
To be considered property of wife,	"
Working tools and Books of professional men	"
Officer failing to pay over money collected under, how liable,	115
Shall keep execution dockets,	"
<i>From Justices courts.</i>	
When to issue and to whom directed,	99
Force and effect of, how long in force.	100-102
In what cases to be sent to different county,	"
On attachments therefrom,	"
Cases of illegal executions, form on affidavit,	103
Claim by stranger, of property levied on, how determined,	"
Constable failing to use due diligence in collecting, liable to a penalty,	101
Debt and penalty how recovered,	"
Not using due diligence in collecting by,	102
<i>Sales under</i> , how conducted,	"
Property to be levied on, order of,	"

EXECUTION DOCKETS.

To be kept by Clerks, Marshals and Sheriffs,

41-125

EXECUTION of DEEDS. (see conveyancies, Recording.)	
EXECUTORS, (See Administrators and Executors.)	
EXTORTION.	
Officers guilty of, how punished,	173
FALSE IMPRISONMENT.	
(see crimes, habeas corpus.)	
Definition and punishment of,	58
Action of, limitation to,	105
FALSE PRETENCES.	
Obtaining money or credit, by means of,	61
FALSE CERTIFICATES.	
In relation to slaves, penalty for registering,	176
FALSE WEIGHTS, &c.	
Selling by, how punished,	72
FARO BANKS. (see gaming.)	
Prohibited and the keepers of punishable,	71
FEES.	
<i>General Tariff of.</i>	
Of secretary's of the Territory,	166
Of Surveyors,	"
Clerk court of appeals,	"
Superior and county court,	167
Justices of the Peace,	168
Notaries Public,	"
Keepers of the Archives,	169
Marshals and Sheriffs,	"
Constables,	171
Coroners,	"
Jailors,	"
Of Judge of the county court,	171
District Attorney,	172
Translators,	"
Witnesses,	"
Jurors in civil cases,	"
Not more than three subpoenas, to be charged to any party during one term,	173
As many names may be inserted in one, as the party may desire,	"
When no compensation is fixed, officer to be allowed the same fixed for a similar ser- vice,	"
Where none is fixed, a reasonable one to be allowed by court,	"

Officers demanding more than their legal fees, may be indicted and punished,	42-172
In cases of forcible entry and detainer.	
Fees allowed Sheriff and other officer,	156
Against estrays, fees allowed Justices of the Peace and Clerk of the county,	195-196
Fees to clerk for recording marks and brands,	195
For registering certificates on sale of slaves,	176
FELONS, FELONIES.	
Concealing or harboring, how deemed and punished,	65
Felony, compounding of, how punished,	"
Clerks or other officers, guilty of, to be removed,	216
FENCES.	
Setting fire to, how punished,	73
FERRIES.	
County courts empowered to establish,	214
To regulate Tolls,	"
Militia going to or from muster to pass over toll free,	225
FICTITIOUS NAME.	
Drawing bills of exchange in, forgery,	60
Character, obtaining money &c. by means of,	61
FIERI FACIAS, (see Execution.)	
FIGHTING.	
In a public place, how punished,	65
FINES, FORFEITURES and PENALTIES.	
Falsely discharging &c. by public officer how punished,	65
How disposed of in certain cases,	"
Marshal and Sheriff to collect and pay over to Treasurer in certain cases,	123
Penalty on failure,	"
Commissions allowed on collections,	"
Lists of, to be returned semi-annually to T. Treasurer,	"
Penalty for neglect,	"
FIRE.	
Setting fire to stacks of corn, woods and fence &c. how punished,	73
FIRE-HUNTING.	
How punished,	74
By negroes, &c.	185

FISHER, GEORGE,	
Authorized to erect a bridge over Ockloc-	
nee river,	26
FORCIBLE ENTRY and DETAINER.	
Entry into lands, not to be with strong hand	
&c.	150
Party dispossessed of, summary remedy given,	"
So to person otherwise entitled to possession,	"
Proceedings thereon,	
Nature of complaint, form thereof,	151
To be verified by oath,	"
Justice thereupon to issue his warrant,	"
Form of Warrant,	"
To whom directed, when returnable,	152
How and when to be served,	"
Witnesses subpoena for, effect of,	"
Justices courts in this respect to be consider-	
ed a court of record,	"
Powers of,	"
Proceedings of, to be recorded,	153
Jury to be empanelled,	"
May be composed of householders,	"
Charge to the Jury,	"
Evidence to be admitted,	154
Parties allowed Counsel,	"
Verdict, and Judgment thereon,	"
If in favor of Pl'tfs restitution in certain cases,	"
Costs to be allowed on judgment,	"
Appeals in such cases to county courts,	155
Traverse to be filed,	"
Further proceedings thereupon by Justices,	
to be suspended,	"
Appellant to give bond &c. in such case,	"
Appeal and traverse, how to be tried,	"
No judgment rendered in such case, a bar to	
the action.	"
Nor to be conclusive as to facts found,	"
Jurors summoned, failing to attend, penalty,	"
Fees of Sheriff and other fees, how collected,	156
When judgment on appeal shall be enternd for	
defendant below, writ of restitution,	155
FORFEITURES. (see Fines.)	
FORNICATION.	
Persons guilty of, subject to indictment and	
punishment,	

Charges of, against female sex, actionable,	43
FREE NEGROES and MULATTOES.	
(See slaves, free negroes &c.)	
FRY, SAMUEL,	
Resolution for the relief of,	301
GADSDEN COUNTY.	
Superior court for, established,	211
Clerk of, to be appointed,	"
Boundaries of,	221
County court of, time of holding,	223
GAMING, GAMBLING.	
<i>Gaming houses.</i> Power to restrain granted to certain cities and towns,	21-289-293
Gaming tables and faro banks prohibited,	69
Persons, keeping or concerned in, how punished,	69
Owner of house permitting them to be kept therein subject to a fine,	70
Keepers or exhibitors of, deemed and punished as Vagrants,	71
Common gaming house, table or room,	
Keeping the same, subject to a fine,	69
Permitting persons to frequent a house or room for,	"
Playing and betting at certain games with cards &c.	
Proviso in favor of certain games and exercises,	"
Officers of justice authorized to break into such rooms, houses &c.	70
Penalty on them for acting without just cause,	"
GARNISHEE. (see Attachments.)	
Garnishee process on judgments, when issued,	112
GUARDIANS and WARDS.	
<i>Guardians,</i>	
To be appointed by county court,	141-215
Security to be required from them,	141
Fathers may appoint by deed or last wills,	"
Subject to the same liability and vested with same powers as in other cases,	"
Of idiots, lunatics &c. to be appointed or displaced by Judge of county court,	215
<i>Liability and duties of.</i>	
Complaints against, to be heard and determined,	124

Shall return inventories,	125
May be required to give counter security,	"
May be summoned and attached to appear in court and render accounts,	136
Their receipts, when binding on minor,	137
May refer suits to arbitration in certain cases,	192
 HABEAS CORPUS.	
May be issued by court of appeals,	47
 HAMILTON COUNTY.	
Boundaries of,	222
County court of, time of holding,	224
 HEALTH, PUBLIC.	
Nuisances and practices against, enumerated and prohibited,	70
 HEDGES.	
Across streams to the obstruction of navigation &c. prohibited,	77
 HOGS.	
Stealing of, (see Larceny.)	55
Altering marks and brands of, how punished	"
Maiming or killing maliciously,	74
 HOMICIDE. (see murder, manslaughter.)	
Justifiable, definition of,	51
Killing trespasser or invader on one's property &c. when justifiable,	52
Killing slave in the act of revolt,	"
In case of justifiable homicide, accused to be acquitted and discharged,	"
 HORSES.	
Stealing, (see Larceny.)	54
Altering marks and brands of,	55
Maiming or killing maliciously,	74
Slaves prohibited from owning,	189
 HOUSES, DISORDERLY.	
The keeping of, how punished,	69
 HOUSES, TIPPLING.	
Keeping disorderly tippling houses on the sabbath, how punished,	75
 HOUSES, GAMING. (see Gaming.)	
 HOUSES, DWELLING. (see Burglary, Larceny.)	
Breaking and entering dwelling houses,	54
Or, other houses, with intent to steal,	56
Or, stealing therefrom,	"
Burning the same, (see Arson,)	54

HUSBAND and WIFE. (see Divorces, Alimony.)	
Crimes committed by wife under coercion of husband,	46
All rights to property vested in wife by former laws of this Territory, secured,	144
When entitled to administration,	126
 IDIOTS. (see Guardians.)	
Not capable of crimes,	48
But persons inciting them, deemed guilty,	49
Guardians, how appointed for,	215
Saving clauses in favor of, under the State limitations,	104-106-108
 ILLEGALITY, AFFIDAVIT OF.	
How determined,	112
Second affidavit not to be received,	"
 IMPRISONMENT.	
For debt, abolished <i>in toto</i> , by no process requiring bail being allowed,	28
No <i>capias ad satisfaciendum</i> to issue, on any judgment, except for fines,	39-116
 INCEST.	
Cohabitation after divorce for certain causes, subject to the penalties of,	12
Punishment of,	68
Charge of, against female sex, actionable,	43
 INDIAN AGENTS.	
Duties &c. respecting runaway slaves,	182-183
 INDICTMENTS. (see criminals.)	
Persons indicted, how to be apprehended and tried,	121
Prisoner to be furnished with copy of,	122
How to be signed and endorsed,	"
For libel, truth may be given in evidence,	67
 INFANTS.	
When capable of crime &c.	48
Persons inciting them to, how liable,	48-49
Suits by, may be referred by Guardian to arbitration in certain cases,	192
Saving in favor of, under St. of limitations,	104-106-108
 INFORMERS.	
Compounding for crimes and offences,	65
 INJUNCTIONS. (see Chancery.)	
May be awarded by county courts in suits	

for alimony,	13
From Chancery, when and on what terms granted,	80
INOCULATION. (see Physicians.)	
INQUIRY. Writs of.	
<i>Of damages,</i>	
After judgment by default, when to be award- ed,	33
After inquiry of damages executed, no judg- ment to be staid for omission &c.	40
INSOLVENCY.	
Of intestates, (see Administration.)	130
INSPECTORS.	
Of militia, (see militia,)	235
Of lumber (see measurer of lumber,)	206
INTERPRETERS, &c.	
How appointed and sworn, compensation &c.	39-172
INTENTION, Criminal. (see crimes.)	
Definition of,	48
INTEREST.	
Rate of, allowed on judgments,	39
At Bank of Florida,	271
INVASION and INSURRECTION or REVOLT.	
In case of, militia rendezvous, how design- nated,	226
<i>Insurrection or revolt of slaves.</i>	
Persons exciting, how punished,	50
Accessaries, how,	"
Compounding such offences,	65
Slaves conspiring to rebel &c. how punished,	183
JACKSON COUNTY.	
Boundaries of,	6
Seat of justice for, established at Marianna,	2
Superior court for,	209
County court of, time of holding,	224
JAILS, JAILORS. (see crimes &c. criminals.)	
When no jail in a county, offender may be committed to jail of next county,	121
<i>Escape from,</i>	
Aiding persons to effect, how punished,	63-64
Prisoner escaping from, indictable &c.	64
<i>Jailors.</i>	
Duress and cruelty by, towards prisoners, how punished,	62

Permitting voluntarily, prisoners to escape,	64
Refusing to receive prisoners legally committed,	"
Fees of,	171
JEFFERSON COUNTY.	
Superior court for,	211
Boundaries of,	222
County court, time of holding,	224
JUDGES.	
Their appointment, duties &c. (see courts.)	213-218
Criminal powers, (see criminals, bail, habeas corpus.)	
Mal practices by,	62
JUDGMENTS.	
Falsely acknowledging, or procuring,	63
Not to be set aside for variance, mispleading &c. after verdict of jury or award of arbitrators,	40
By confession.	
Powers of Attorney to confess, before suit brought, void.	43
All general releases of error void,	"
By default, and writs of inquiry &c.	39
How to be entered up &c.	"
Effect and binding force of,	112
Interest and costs on,	39-44
Arrests of, when allowed and effect of,	40
Motion for, when to be made,	39
When a supersedeas,	"
<i>In Justices courts.</i>	
Dignity and binding effect of,	100
Against joint obligors &c.	"
In attachment cases,	96-97-165
In cases of forcible entry and detainer,	155
On appeal, writ of error &c. (see Appeal.)	
From Justices to county courts,	218
JUDICIAL PROCEEDINGS.	
Power and jurisdiction of superior and county courts,	27
What shall be considered a contempt,	"
Failure of Judge to attend court,	"
Suits, how instituted against the person,	"
Capias or summonses when and how served and returnable,	27

No bail allowed thereon,	"
Process, how tested and signed,	"
Clerk to transcribe praecipe's in a book,	"
Non-resident pliffs to enter security for costs,	"
On failure, Attorney liable,	29
Process returned by the Marshal, not executed,	
Suits, to be brought in the county and district in which defendant resides,	29
Exception, when two defendants residing in different districts,	29-30
Process against two and served on one, how plaintiff may proceed,	30
Against mercantile firm, service of,	"
Against Marshal,	"
In case of death of Marshal or other officer, or on expiration of office, &c. papers to be transferred to successors,	30-31
Marshal or Sheriff failing to attend court, Coroner to act, and how paid,	31
Officers serving process to note time &c.	32
Appearance docket, when to be called, &c.	"
Declarations when to be filed,	"
Pleas, when,	"
Demurrers, notice of to be given and when argued,	"
Judgment by default, when given,	33
Appearance by Attorney, effect of,	"
Pleas in abatement and certain other pleas to be put in on oath,	"
Execution of bonds, notes &c. or consideration, when to be proved,	33-35
Pleading, none to be set aside for want of form; How amended and when,	33-39
No objection, if contradictory,	33
Demurrer not considered as admission of fact set forth in,	34
When suits <i>abate</i> , &c. and how revived,	"
How to proceed after death of party,	"
One copartner dying, suit to proceed,	"
Female plaintiff marrying, pending suit,	"
Infants how to sue &c.,	"
Assignments of bonds, notes &c. effect of,	35
When necessary to prove consideration of,	"

Bonds &c. or a copy, on which suit is brought to be filed,	34
Scrawls equivalent to a seal,	"
Venue, change of when allowed,	"
Witnesses, how summoned,	36
Attendance of, how compelled,	"
Remedy, against defaulting,	"
Duty of, in attending court,	37
Attendance or pay of, how charged,	"
Amount paid witness by successful party to be taxed in bill of costs,	"
Ministers privileged from arrest while performing service,	"
Civil process not to be executed on Sunday, Except in case of absconding debtor,	38
Set off, how and when to be pleaded, Subjects of,	"
Trial of causes, time of.	39
Challenges, peremptory and for cause.	"
Juries <i>de mediatate lingua</i> ,	"
Interpreters, to be appointed,	"
Interest on Judgments, rate of,	39
Motions for new trial and in arrest of judgment, how made,	"
When a supersedeas,	"
Effect of,	40
<i>Ca. sa.</i> , not to issue, except for fines,	39
Judgments, when to be stayed or reversed,	40
Writs of error and certiorari, how tried, When to operate as a supersedeas,	"
Money made on execution to whom paid	"
Securities, when to justify,	41
Duty of clerks, in keeping papers, In keeping minutes of proceedings and certain docketts,	"
Marshal, Sheriff, or Clerk guilty of mal practice in office, how proceeded against,	42
In actions of trespass <i>quare clausum fregit</i> , defendant may disclaim,	"
Removal of Defendants after suit brought, an <i>alias</i> writ to issue,	"
Slander, words actionable <i>per se</i> ,	43
Plaintiff failing to take judgment by default, Defendant may plead at subsequent term,	"
Powers of Attorney to confess judgment, be-	"

fore suit brought void,	43
Bills of exception, if the court refuse to sign how done &c.	"
Judgment on bonds, how entered,	44
Non suit, when granted,	"
Costs follow judgment,	"
Witness, no person convicted of perjury, shall be,	"
JURIES, JURORS.	
Juries in criminal cases,	122
Grand and petit jurors, how summoned,	147
Duty of summoning officer,	148
In justices courts, how summoned,	"
Defaulting jurors in superior and county courts, In justices courts,	149
Qualification of jurors in general,	"
To try title to real estate,	"
Doctors of medicine and Clergymen, exempt,	"
Jurors to be summoned for the county in which they reside,	"
Persons convicted of infamous crimes, incom- petent,	"
Peremptory challenges in criminal cases,	122
Jury in case of forcible entry and detainer,	153
Fee of Jury in civil cases,	172
Qualification of Juror for trial of a slave,	189
Juries in county court, qualifications &c.	217
JUSTICES of the PEACE and	
JUSTICES COURTS.	
Justices districts to be laid off by county court,	91
Judge of county court neglecting to do so,	92
Alteration in districts, how made,	"
Clerk of county court to record, &c.	"
Not more than two justices in each district,	"
Oath of justice,	"
Before whom may be taken,	93
Sessions of their courts, when and where held,	"
Powers and duties of,	"
Shall have jurisdiction of suits not exceeding fifty dollars,	"
Suits in, how commenced,	94
Summons, how served,	"
To be brought in the district where defend- ant resides,	"

Against justice or constable,	94
If justice be interested in,	"
Notes &c. signed by two persons, how sued on	95
Attachments, when authorized to grant,	"
How directed and levied,	"
Summons of Garnishee,	"
Traverse of garnishee's answer,	96
Shall be advertised,	"
Property attached, how replevied,	"
Sale of property, attached,	"
Judgment on, in case of replevin,	"
Judgment against garnishee,	97
Docket books to be kept by justice,	97
Shall have power to fine or imprison for con- tempts,	"
Evidence in justices courts,	"
When party allowed to prove account &c. by his own oath.	"
Set off. Judgment in cases of,	98
No written pleadings required,	"
Party may appear by counsel,	"
Trial and continuance of causes,	"
Jury trial, when to be demanded,	"
Witnesses, subpoenas for, and compensation of,	98-99
Bonds, notes &c. to be denied on oath,	99
New trial, when granted,	"
Appeal from, how taken &c. Duty of Justice on appeal,	"
Executions, how and when issued, How directed, their force and effect,	100
Judgments, dignity of,	"
Real estate or slaves when levied on, to de- liver execution to Sheriff,	"
In suits against joint obligors, or promissors judgment how given.	"
Constables, their appointment &c. (see con- stables,)	101
Affidavit of illegality of execution and claims,	102
Service of process from, by private person,	102
<i>Ca. sa.</i> not to issue,	103
Justice to hand over papers &c. to successor,	"
Judgment by confession, in case of, no appeal allowed,	"
Mal practice in office of justice, how punished,	105

May issue warrants for the apprehension of Criminals,	119
Powers of, under the act concerning forcible entry and detainer,	159
 KEY WEST.	
Town of, incorporated,	296
Resolution requesting establishment of a military force at,	300
 LABOR.	
Of slaves, excessive labor of, prohibited and punished,	
On the Sabbath prohibited under penalty,	76
 LANDS, TENEMENTS, &c.	
Of intestate or testator, how and when sold,	• 132-3-9
Escheatable for defect of heirs,	138
Conveyance of, (see conveyances, recording,)	156
Dower in, (see Dower,)	15
Judgments affecting (see judgments,)	112
Executions levied on, (see executions,)	109,110
Contracts or agreements for sale or lease of, to be in writing,	161
Attachments against, (see attachments,)	163
Lands of individuals passed over by roads, compensation for (see roads,)	262
Lands required for the use of certain compa- nies &c. (see their several charters,)	7-283-288
 LAND MARKS.	
Altering or removing, how punished,	56
 LANDS, PUBLIC.	
Public sales of, unfair practices towards bid- ders, how punished,	76
 LANDS, COUNTY.	
County court authorized to protect, and sell &c.	214
 LANDS, SCHOOL.	
Trustees to be appointed,	247
Shall give bond, condition thereof,	"
Term of office,	"
Shall lease out lands,	"
And collect all monies and pay them into the Treasury,	"
Shall make an annual statement of their acts,	248

Shall select a place for school house &c.	248
Compensation of Trustees,	"
LARCENY.	
Definition of,	54
Horses, stealing of, how punished,	"
Cattle, stealing of,	55
Hogs, stealing of,	"
Muniments of title, stealing of, how pun- ished,	"
Bonds, notes, bills, &c.	"
Slaves,	"
LAWs,	
Of a State or Territory, printed copies of evidence,	145
Private acts of the council, need not be spe- cially pleaded,	146
Saving as to rights accruing under Spanish laws in relation to wifes seperate property,	144
An act for the condensation of,	203
Repeating clause,	208
Saving as to offences committed and pro- ceedings had under laws repealed by said act.	209
Acts of 1828, when to take effect,	"
LAWYERS. (see Attorneys.)	
Convicted of barratry, to be disqualified,	66
LEASES. (see conveyances, recording.)	
Of terms of more than two years or for any uncertain period or assignments of, how created,	156
Such deeds and assignments to be recorded,	157
Contracts for leases of longer term than one year, or for uncertain period, to be in writ- ing,	161
Tenant under, holding over, subject to double rent,	202
LEASE and RELEASE.	
In conveyances by deed of, possession trans- ferred without levy of seizin,	161
LEGISLATIVE COUNCIL.	
Bribing of, &c. how punished,	62
Acts of (see Laws.)	
LEON COUNTY.	
Boundaries of,	223
County court of, time of holding,	224

LEWD HOUSES.	
Keeping lewd house, how punished,	69
Open lewdness, persons guilty of, how punished,	68
LIBEL.	
Definition of, and how punished,	67
On indictments for, truth may be given in evidence,	"
LICENCES.	
Marriage Licences. (see marriages,)	18
LIENS.	
Created by taxes,	242
LIMITATIONS of ACTIONS.	
On writs of error, saving to infants &c.	47
On Penal acts of the Legislative Council,	"
Of writs of formedon,	104
Right of entry,	"
Saving to infants &c.	"
Writ of right or seizin of ancester,	"
On party's own seizin,	105
Actions of trespass and other mixed and personal actions,	"
Actions of book account,	"
Penalty for post dating an account,	"
Computation of time, how made,	106
When judgment be given for pliff, and afterwards reversed, further time allowed,	"
Saving in favor of infants, <i>femes covert</i> , lunatics &c.	106, 108
Limitation when plaintiff resides beyond seas,	107
Where defendant absconds &c.	"
On suit against Executor, court to expunge all others above a certain time,	"
Debt or scire facias on judgment against Executor,	108
Limitation or prosecutions &c. (felonies excepted,)	123
LIVERY of SEIZIN. (see conveyances.)	
In deeds of bargain and sale &c. possession to be in bargainee &c. without livery &c.	161
LUNATICS.	
Acts committed by (not in lucid intervals) not crimes,	48
Persons inciting them to commit offences, how punished,	49

Guardians of, to be appointed by Judge of county court,	215
Saving clauses in favor of, under statute of limitation,	104-106-108
 McINTOSH, James M.	
Divorced from his wife,	1
 MAGNOLIA, Town of, incorporated,	
	289
 MADISON,	
County road and navigation company incorporated,	7
Boundaries of,	222
County courts of, time of holding,	224
 MANDAMUS.	
Certain courts authorized to issue writs of,	47
County courts may issue to Justice,	213
 MANSLAUGHTER.	
Definition of, voluntary, how punished,	50
Involuntary how,	51
May both be included in same indictment,	52
Killing trespasser or invader of ones premises, when deemed to be,	"
By slave, how punished,	184
MARKS and BRANDS. (see Estrays &c.)	
 MARRIAGES, MARRYING, &c.	
Agreements in consideration of, to be in writing &c.	161
Incestuous, how punished,	68
Certain prosecutions suspended by,	"
Persons knowingly marrying wife or husband of another, how punished,	"
Married Women committing certain acts by coercion of husband, not punishable,	49
Privileges and rights to property derived by marriage under Spanish laws of this Territory, saved,	144
 MARRIAGE LICENSE.	
Marriages without license, prohibited,	18
Who may solemnize marriage rites,	"
County courts may grant licenses,	"
Certificates of all marriages to be sent to the clerk of the county, for record,	"

Minister &c. failing therein, liable to forfeiture,	19
Licenses to marry to be issued by the clerk,	"
Bonds to be given by persons applying for,	"
When parties are under age, consent to be had,	"
Marrying within the levitical degrees prohibited,	"
Such marriages to be annulled,	"
Issue not to be rendered illegitimate thereby,	"
MARSHALS.	
Prohibited from practising law in this Territory,	15
Failing to attend Superior courts, Go to to act in his stead,	31
Process against, how served,	30
On expiration of their offices shall turn over all papers to their successor,	31
Shall also deliver all prisoners &c.	"
Successor to carry into effect all unfinished business,	"
On service of process, to note time of execution,	32
Punishment of, for mal practice or extortion,	42
Sales under execution by, how made &c.	110
May require indemnification, when property levied on, is disclaimed by defendant,	112
In cases of illegal executions, how to proceed,	"
In cases of claims to property levied on and claimed by a stranger, proceeding thereon	113
Failing to pay over money collected, penalty for,	115
Shall keep execution dockets,	"
Their fees,	169
In case of change of venue in criminal cases, their powers and duties,	79
Their duties with respect to summoning grand and petit Jurors,	147-148-149
MAYHEM.	
Definition and punishment of,	53
By slaves committed on white persons,	184
MEADOW BANKS.	
Breaking down or injuring maliciously, how punished,	73

MEASURERS and INSPECTORS of LUMBER.	
To be appointed in certain counties,	200
Their duties &c.	"
Fees,	"
May have a lien for fees,	201
Penalty for transporting lumber without measurement,	"
Their oath of office,	"
MEDICAL BOARD.	
Act of Incorporation,	258
Name and powers of,	"
Annual session of, at Tallahassee,	"
Powers of board to grant licenses,	259
Temporary, how and by whom granted,	"
Fee for license,	"
Persons practising without license, how punished,	"
Vacancies in said board, how filled,	"
MENACES or THREATS.	
Persons committing crimes &c. under, in certain cases, not liable to punishment,	49
But the persons using such menaces to be deemed and punished as guilty,	"
Nature and degree of the menaces used, which will be sufficient to save harmless,	"
MERCHANT.	
Keeping open store on the sabbath, how punished,	70
Selling unwholsome or pernicious and adulterated liquors &c. how punished,	70
MILITIA.	
Persons liable to militia duty,	225
Persons exempt from, in time of peace,	"
Exemption from arrest while attending muster &c.	"
Arms &c. of militia exempt from execution,	"
Staff of the Governor, of what officers to consist &c.	"
Brigade staff,	"
Regimental staff,	"
Organization of militia into brigades, Regiments &c.	"
Field and company officers, how appointed &c.	226
Rendezvous for brigades, regiments and battalions,	"
Duties of Brigadier General,	"

To arrest officers and order special court martial,	226
Duty of the Adjutant General,	227
Of Quarter master General,	"
Of Colonels of regiments,	"
Order musters of, and inspect the regiment,	228
To order court-martials for trial of officers,	"
And for assessing fines,	"
Shall divide regiment into battalions,	"
Duty of Lieut, Colonels and Majors,	"
Duty of Regimental Adjutant,	229
Duty of Quarter master,	"
Duty of pay masters,	230
In case of defaulting collecting officers,	"
Duty of the captain of company,	230
Fines, assesment of,	"
On a Colonel,	"
On Lieut. Colonel and Major,	231
On Adjutant,	"
On Quarter master,	"
On Pay master,	"
On Captains and subalterns,	"
On non-commissioned officers and privates,	232
Company courts Martial,	
How ordered and composed,	"
Appeal from to regimental court martial,	"
Regimental courts martial,	
To be detailed once a year,	233
Jurisdiction of,	"
Duty of Adjutant in relation thereto,	"
Sergeants to be collecting officers of companies,	"
Adjutants to be of regiments,	"
Their fees,	"
Arrest of the person of defaulter,	"
Imprisonment of officers and privates, time of &c.	234
Invalids, how exempted from duty,	"
Officer of company shall enrol all persons liable to duty,	"
Volunteer corps, formation of,	"
To be attached to regiments and battalion in which they muster,	"
Oath of commissioned officers,	235
Duty of Brigade Inspector,	"

Term of office of officers,	235
Shall not resign within two years,	"
Location or distribution of regiments,	"
Officers need not wear uniform on courts martial,	"
Allowed one year to procure,	236
General repeal of all militia laws,	"
MILLS.	
County courts to grant writs of <i>ad quod damnum</i> for the erection of,	214
MILL DAMS.	
Breaking &c. or injuring any mill dam, penalty for,	73
MINISTERS of RELIGION. (see Clergymen.)	
MISCHIEF. (see crimes.)	
Acts of malicious and fraudulent mischief, not enumerated, how punished,	74
MISFORTUNE.	
Acts committed by, with no evil design or culpable negligence, not imputed as crimes,	49
MONROE COUNTY.	
Boundaries of,	219
County court of, time and place of holding,	223
Certain records in, made valid,	275
MORALS. PUBLIC.	
Certain offences against, how punished,	71
MULLATTOES, (see negroes and mullattoes,)	
MURDER. (see crimes, &c.)	
Definition and punishment of,	50
Provocation by words, threats &c. not sufficient to free party killing from imputation of,	51
Killing trespasser or invader of one's premises, when murder,	52
Assault with intent to Murder,	53
Slaves conspiring to murder white person,	188
MUSQUITO COUNTY.	
Superior court of St. Johns, to have jurisdiction over,	216
Boundaries of,	220
County court of, time of holding,	223

NASSAU COUNTY.

Superior court of Duval to have jurisdiction over,	211
Boundary of,	221
County court of, time of holding,	223

NAVIGABLE STREAMS.

Certain obstructions to, prohibited under a penalty,	77
Penalties, how recoverable,	"
Obstructions, how to be removed,	"
Felling trees across, how punished,	"
Breaking or injuring banks of, how punished,	73
Chipola river, declared a,	4

NE EXEAT, Writs of, (see Chancery.)

County courts may award, in suits for Alimony,	13
Not to be granted, but upon bill filed and affidavit of the truth of the allegation,	80
Judge shall endorse the penalty to be required in the bond,	"
What absence of de'ft, a breach of bond,	"
Power of sureties therein over principal,	"
Not to issue until bill filed, except in special cases,	"

NEGLECT.

Of constable in collecting &c. liable for,	102
--------------------------------------------	-----

NEGROES and MULLATTOES.

Migration of or bringing of free negroes or mulattoes, into this Territory prohibited,	186
If found therein may be arrested,	"
Proceedings thereon,	"
Proceedings in county court, shall be compelled to give bond to depart the Territory	187
On failure to depart may be sold,	"
Proceeds, how disposed of,	"
Provisions not to extend to negroes on board ships or vessels,	"
Exception as to free negroes in Key West,	188
Not permitted to carry fire arms or ammunition without license,	177
Cities of St. Augustine and Pensacola excepted from above provision,	"
Duty of constable to inform and prosecute in such case,	"
Punishment for a second offence,	"
<i>Mulatto</i> , who shall be deemed,	"

Riots, routs and unlawful assemblies and seditious speeches of &c.	177
Punishment on white person found participating therein,	178
Duty of Justice in this particular, Marshal, Sheriff and Constable,	"
Penalty on failure of these officers to suppress &c.	"
<i>Witnesses</i> , negroes and mullattoes may be in all pleas of the Territory against other negroes &c.	"
Free negroes &c. selling liquor to slave, how punished,	180
Abusive language, assaults &c. upon any person not a negro or mulattoe,	"
Preparing or administering person, &c.	184
Assault with intent to rape white woman, how punished,	"
Giving false testimony, how punished,	185
Other offences committed by,	189
Supplying prisoner in jail with liquor,	190
NON COMPOS MENTIS.	
Guardians how appointed for,	215
Not capable of crimes,	48
Saving in favor of, under statute of limitations,	104-6-7-8
NON RESIDENTS.	
Non resident plaintiff to give security for costs,	28
Not allowed to sue for divorce in this Territory,	4-11
Non resident defendants in proceedings by attachment,	163
In Chancery proceedings,	83-84
Administrators &c. being not residents, attachments may issue against intestates,	165
NOTARIES PUBLIC.	
Answer in Chancery, may be sworn to before,	85
Fees of office,	168
NUISANCES.	
Public nuisances, not enumerated, how punished,	70
How abated,	"
OCKLOCKONNE.	
Fisher's bridge over,	26

Ocklockonnee and Lake Jackson Canal company, incorporated,	280
OFFICERS.	
Prohibited from arresting for any civil cause, a Minister of religion, while performing service,	37
Not to serve civil process on Sunday,	38
Of any public office corporation &c. embezzling, stealing or destroying papers &c. how punished,	56
Persons causing it to be done,	"
Assaulting or beating any one under color of his commission,	63
Any officer failing to give bond for the faithful performance of his duty, before entering on the same, penalty,	123
Certain officers ineligible to the appointment of member of the Legislative Council,	254
Compensation to officers of Council 1828,	295
ORPHANS.	
County court to bind out poor orphans as apprentices,	125
Guardians for, (see Guardians,)	215
PARTITION.	
Of lands sold under execution,	111
PENAL ACTS.	
Bail may be required in prosecutions on,	123
Limitation of the time for prosecuting on,	"
Presentments for violations to be signed by foreman of Grand jury,	123
PERJURY.	
And subornation of perjury, how punished,	61
Which causes the death, or conviction of another,	"
PHYSICIANS.	
Endeavoring to spread the small pox &c. how punished,	71
Licenses to practice,	258
Not compelled to serve on juries,	149
PILLORY.	
Punishment by, how inflicted, place, when,	78
PLACARDING,	
Or, publishing another for not accepting a challenge to fight, how punished,	67

Printer in such case, refusing to give up the author, how liable,	67
PLEADING, PLEAS.	
Rules respecting, (see judicial proceedings,)	
POSSESSION. (see forcible entry and detainer,)	
To accompany transfer in certain mortgages of goods &c.	158
Annexed to the use, in certain conveyances,	161
PRACTICE.	
Rules of, (see judicial proceedings,)	27
Of courts of Chancery, (see chancery.)	
Rules adopted by the Supreme court of the United States for the Federal courts to ap- ply in cases not provided for by law,	91
In other cases, the practice of the high court of Chancery of England to govern,	"
Of Courts of Common Law.	
Court of appeals to make rules of, for it- self and superior courts,	48
PRESENTMENTS.	
On penal statutes to be brought within two years,	123
Shall be signed by foreman of the grand jury,	"
PRINTER.	
Refusing to give up the author of certain publications, to be punished for contempt,	67
PRISONERS.	
Rescue of, how punished,	63
Escape from jail, how punishable,	64
Persons aiding escape of, how punishable,	63-64
Officers permitting an escape, or refusing to receive offenders, how punishable,	64
Draress and cruelty to, how punishable,	62
Furnishing same with liquor,	78
PROBATES.	
Courts of, (see county courts.)	
Mode of granting, (see Administration.)	
Of Wills, (see Wills.)	
PROCEDENDO.	
May be issued by court of appeals,	47
By Superior to county court,	218
PROCESS.	
How issued &c. (see judicial proceedings.)	
Not to be executed on Sabbath, except in special cases,	25

Resisting service of, how punished,	63
PROHIBITION. Writs of,	
May be issued by court of appeals,	47
By Superior to county courts,	213
May be issued by county court to Justice,	"
PROMISES.	
Special, to pay the debt of another.	
Not recoverable on, unless some note or memorandum thereof be in writing, &c.	160
Same rule respecting promises by Execu- tors, &c. to pay debts out of their own estate,	"
PROPERTY,	
Claimed by third persons in certain cases, rights to, how determined, (see claims,)	113
How bound by judgments,	112
PROSECUTIONS.	
Malicious and false, conspiring to make, how punished,	65
<i>Limitations to.</i>	
Penal acts (except felonies,) shall be sued &c. prosecuted within two years,	123
Bail may be required on, by order of court,	"
PROSECUTOR, (see crimes, criminal proceedings.)	
The name of the prosecutor shall be endors- ed on every bill of indictment,	122
Compounding of crimes by, punishment,	65
<i>Prosecutions, penal, limitation to all (except felonies,)</i>	124
Bail may be required on, by order of court,	"
<i>Prosecutions malicious and false, conspiring to make, how punished,</i>	65
PUNISHMENTS.	
Of death, how to be inflicted,	78
By pillory, how,	"
By whipping, how,	"
Cruel and unusual punishment inflicted on slaves, prohibited and punished,	183
QUARANTINE.	
Breach of, how punished,	71
QUARTER MASTER GENERAL.	
His appointment, duties &c.	225-227
QUINCY,	
Town of, incorporated,	292

QUO WARRANTO.

May be issued by court of Appeals,

47

RAPE.

Definition and punishment of,	58
Assault with intent to commit, how punished, ed,	"
Committed by slave, how punished,	184
REAL ESTATE. (see lands.)	

RECEIVING STOLEN GOODS.

Persons guilty of, deemed accessories after the fact and punished.	64
-----------------------------------------------------------------------	----

RECOGNIZANCES.

Falsely discharging and concealing any for- feited recognizance by any public officer,	62
Falsely acknowledging or procuring to be ac- knowledged. How punished,	63
From prisoners admitted to bail,	120
From witnesses in criminal cases,	"

RECORDING.

Wills to be recorded in the clerks office of the county,	129
Penalty on the clerk for failing to record,	"
All conveyances &c. of real property, or of any interest therein, to be recorded,	157
Proof of execution required before recorded,	"
Mortgage of personal property valid, only when possession accompanies transfer, or when recorded,	158
How admitted to record,	159
Powers of Attorney for conveyance of lands &c. to be recorded,	160

RECORDS.

<i>Office of original record</i> , county court consti- tuted,	215
Recording officers, their duties,	160-216
Marks and brands of cattle may be recorded,	194
Persons so recording to have presumption in their favor, in case of dispute,	195
Oldest record to have preference,	"
Clerk of county court to record proceedings before justice in cases of forcible entry and detainer,	153

RECORDS, RECORD BOOK.	
Defacing, falsifying &c. any public record by any public officer, how punished,	62
Person causing the same to be done,	"
Record books, to be kept by clerks of courts,	41
REGIMENTS.	
Division of militia into,	225
Regimental staff,	"
Distribution or location of regiments,	235
REGISTERING, REGISTERS.	
Registers of marriage, how and by whom to be made and kept,	19
Certain certificates accompanying the impor- tation of slaves to be registered on sale,	176
Penalty for neglect of, by buyer or seller,	"
For registering false certificates,	"
RELIGIOUS WORSHIP. (see Clergymen.)	
Disturbance of, how punished,	75
RELINQUISHMENT of DOWER. (see dower.)	
How effected,	159
RENDEZVOUS, MILITIA.	
Places of, how designated &c.	226
RENTS.	
Distress warrant for, how and when issued,	201
Party distrained on, entitled to replevy,	202
Duty of Constable in such cases,	"
Sale of property levied on,	"
Tenant holding over, liable to double rent,	"
Entry on non-payment of rent,	"
Interest allowed on all contracts for,	"
Action for use and occupation, will lie for,	"
Parol demise, effect of on such action,	203
REPLEVIN.	
Of property attached in Justices courts,	96
Levied on under execution,	110
Judgment on replevin bond,	"
In distresses for rent, how and when allowed,	202
RESCUE.	
Of prisoners in custody on criminal process, how punished,	63-64
RESIDENCE. RESIDENTS.	
Residents. Party applying for divorce must be,	4-11
Residence. Necessary to entitle to vote for Delegate to Congress.	252

Required for voters, of Members of the Legislative Council,	256
RESIGNATIONS.	
Of officers of militia, when and how allowed,	235
RESISTING PROCESS.	
Punishment of,	63
RETAILERS.	
Of liquor, tax on,	237
REVENUE, (see Taxes.)	
REVOLT. (see invasion, insurrection and revolt.)	
RICHARD FRANCIS, Authorized to cut a canal &c.	29
RIOTS and RIOTOUS ASSEMBLIES.	
Definition and punishment of riots,	67
Riots, Routs &c. by free negroes and slaves, how punished,	177
White person in company, and participating,	178
Duty of Justices of the Peace, Sheriffs &c. to suppress them,	"
Penalties for neglect,	"
ROADS.	
What shall be considered a public road or highway,	76
Obstructing same, how punished,	"
Private or neighborhood roads, how laid out,	261
Justices to make order for survey,	"
Passing through lands of other individual, compensation therefor, how determined,	262
Appeal to the county court,	"
From the Appalachicola to Marianna,	263
Commissioners for, appointed,	"
Duty of Commissioners,	264
Overseer of road, how appointed,	"
Duty of Overseer,	"
Persons liable to work on said road,	"
Penalty on persons failing to work,	"
ROBBERY.	
Definition and Punishment of,	54
By slave, how punished,	188
RUNAWAY SLAVES.	
Who shall be deemed to be,	186
May be apprehended by any one,	"
Reward therefor, to be paid by master,	"
Proceedings respecting, to be committed to jail,	"

Description of, to be advertised in some newspaper,	180
If not claimed within a certain time, may be sold,	181
Notice and time of sale, place where,	"
Proceeds of sale, how disposed of,	"
If owner appear thereafter and make claim,	"
Proof of ownership to be exhibited,	"
Sheriff or Jailer possessing knowledge of ownership of, may dispense with proof,	"
Runaways lurking about and committing trespasses, proceedings directed in such case,	182
Justice to issue warrant to leader of patrol to take by force,	182
Reward for apprehension in such cases,	"
<i>Indian Agent</i> to receive reward for apprehending runaways,	"
How appropriated,	"
He shall report to the Governor annually, all sums received from this service,	183
Shall advertise all runaway caught,	"
 SABBATH, or SUNDAY.	
Keeping disorderly tippling houses, on that day,	69
Employing servants, apprentices, laborers &c. on that day (except in certain works of necessity,) how punished,	76
Process in civil cases not to be served on that day, except in special cases,	38
Plays, games &c., exhibitions of, on that day prohibited, except in certain cities,	77
Offences above mentioned, how prosecuted and before whom, within three days,	"
Keeping open store on that day,	76
 SCHOOLS.	
Keepers of public schools, exempt from militia duty in time of peace,	225
Lands belong to, (see lands, school,)	247
 SCIRE FACIAS.	
To issue on writs of error &c. from court of appeals,	47
 SECRETARY of the TERRITORY.	
Fees of office	166

SECRETING MONEY, &c.

Any officer of any public office, corporation
&c. secreting money or effects belonging
to, how punished,

56

SECURITIES. (see judicial proceedings.)

When to justify, effect of justification,

41

SEINES.

Obstructing the navigation &c. of rivers, by
means of,

77

SET-OFF, PLEAS OF.

How and when to be pleaded,

38

Subjects of, effect of,

"

When balance appears in favor of Defendant,
judgment may be rendered for him,

"

Same rule in justice's courts,

98

SHERIFFS.

Mal practices by, how punished,

62

Assaulting or beating, any one, under color
of office,

63

Permitting prisoner to escape, or refusing to
receive them into their custody,

64

Appointment of how made,

216

Bond and security to be given by,

"

By whom to be appointed and whom payable,

"

Their oath of office,

"

Term of office,

"

In case of removal of Sheriff, Deputies to
continue and discharge the duties of Sheriff,

31

Duty of Sheriff, Powers &c.

With respect to riotous assemblies of ne-
groes,

178

Apprehension of runaways,

180

On expiration of office, &c. shall turn over
papers to successor, &c.

31

Successor to carry into effect all unfinished
business,

"

On non attendance of, Coroner to act in his
place,

"

Coroner's compensation in such cases,

"

Sheriff's failing to pay over money, penalty
against,

115

Guilty of extortion, how punished,

42

Their duties in relation to illegal executions,

112

In relation to claims to property levied on

113

In summoning juries,

148

Under the act concerning Dower,	16-17
In proceedings of forcible entry and detainer,	152
Fees of office,	169
Certain travelling expenses allowed for carrying election returns,	253
 SHIPS and VESSELS.	
Burning, setting fire to, or scuttling, how punished,	74
 SLANDER.	
What words against female sex, actionable,	43
 SLAVES.	
<i>Dower in</i> , widows to have only a life estate,	16
<i>Property in slaves</i> , to be deemed and taken as personal property,	159
How to be levied upon and sold under execution,	110
Who shall be deemed slaves,	174
Importation of foreign slaves prohibited,	"
Of slaves convicted of infamous crimes, &c. prohibited,	175
Persons offending herein, how punished,	"
Certificates required to accompany importation of slaves in certain cases,	"
On sale of such slave, certificate to be registered,	"
Penalty for failing, or for registering false certificate,	176
Slave trespassing, upon plantation,	"
License to buy or sell, when good,	"
Riots, routs and seditious speeches, by slaves,	177
White persons participating,	178
Duty of Justice of the Peace on information of, &c.	
Marshal, Sheriff and constable to suppress &c.	
Slave, when witnesses,	
Buying from slave on the Sabbath without license,	
Owner permitting slave to trade for himself &c.	179
Trustee, Guardian, Executor &c. permitting slave to hire himself out &c.	"
Slaves offering articles for sale without license, may be arrested,	"

Articles so offered, to be forfeited to the apprehender,	179
Abusive language to, or assault upon white, &c.	180
Runaways, (see runaway slaves,) " "	
Cruel and unusual punishment of slaves, prohibited,	183
Removing slaves to the injury of him in remainder or reversion, how remedied,	" "
Husband removing negroes held by wife for life, to the injury of him in remainder or reversion, how remedied,	" "
Conspiracy to rebel, or murder white person, how punished,	" "
Assault with intent to kill, how punished,	184
Preparing or administering poisons,	" "
Punishment of slaves for felonies not capital,	" "
Maiming a free white person,	" "
Manslaughter of any person, how punished,	184
Committing arson, how punished,	" "
Assault with intent to rape, how punished,	" "
Larceny by slaves, how punished,	" "
Giving false testimony how punished,	185
Slaves travelling alone, exceeding seven in number,	" "
Trading without license from master,	" "
Firehunting, keeping horse, boat &c.	" "
Carrying fire arms, ammunition &c.	" "
Consulting or advising the murder of any person,	188
Slave shooting a white person, with intent to kill,	" "
Robbery from the person or Burglary, punishment of,	" "
Counsel to be assigned for defence of slave on trial, and how paid,	" "
Charge to slave witness,	189
Shall not own horse, mule or cattle,	" "
Rule of practice on trial of slaves,	" "
Other offences committed by,	" "
Owner of, when liable for costs,	" "
Compensation made to owner in capital cases,	" "
Supplying person in jail with liquor,	190
SMALL POX.	
Physicians and Surgeons endeavoring to spread this disease &c. how punished,	73.

TATUTES, (see Laws.)	
TEALING, STOLEN GOODS, (see Larceny.)	
Stealing books, papers &c. belonging to public office, by an officer, how punished,	62
<i>Stolen goods, buying or receiving the same,</i>	64
STEAM NAVIGATION.	
An act to open a steam boat passage near the Atlantic coast,	186
Company for that purpose incorporated, by the name of Indian River Navigation Company.	"
SUPERSEDEAS.	
Motions for new trial, and in arrest of judgment, when to operate as,	39
Appeals, writs of error and certiorari, when, <i>In Chancery cases.</i>	40
Appeals granted to operate as such, <i>In Probate cases.</i>	89
Appeal granted as a supersedeas,	140
SURVEYORS.	
Fees of,	166
TAVERN KEEPERS.	
Territorial tax on,	236
TAXES.	
Territorial tax to be assessed,	236
Subjects of taxation,	236-237
Reference to be had in assessment of to 1st. February,	237
County court to appoint Assessor and Collector,	"
Their bonds,	"
Shall be recorded and deposited with Secretary,	"
Certified copy of, evidence,	"
Failing to give bond,	238
Penalty on Assessor and Collector for acting without giving bond,	"
Duty of Assessor,	"
Public debtor shall not be eligible to offices of Assessor or Collector,	"
List of taxable property to be rendered to Assessor,	239
Contents of,	"
Double tax on persons refusing to give in list,	"

Certificate to be attached to list,	239
Persons residing without county where property may be,	240
Duty of Assessor in making up tax books,	"
Punishment of, for making false lists,	"
Duty of Tax collector's in making collections,	241
Time of payment of Taxes,	"
Distress and sale of delinquents goods, chattels, land,	"
Notice of sale of chattels,	241
Of sale of lands,	"
If a non-resident,	"
Manner of sale,	"
Tax collector's commission, to be paid by defaulter,	242
Right of redemption given to delinquent,	"
Saving to infants and lunatics,	"
Taxes to have a preference in payment,	"
To be a alien,	"
Remedy against persons absconding,	"
Tax collector to execute deeds to purchasers,	243
When to be recorded,	"
May be vacated in certain cases,	"
Property without an owner, tax on, how assessed,	"
In case of omission to assess any property, how remedied,	"
In case of persons removing without paying taxes,	244
County court to hold special term for the examination of insolvents list,	"
May also grant relief in case of over-charge or improper taxation,	"
Tax collector, when to pay over taxes collected,	245
Compensation to Assessor and Collector,	"
Remedy against defaulting tax collector,	"
Tax to be collect & by officers who were in office at the time they were due,	"
Judge of county court to appoint assessor and collector in case of vacancy,	"
<i>County Tax.</i>	
To be levied by county court,	246
How assessed, collected and paid over,	"

In case of failure by county court to levy, assessment, how ordered,	246
General repeal of all other laws,	"
TAX COLLECTOR.	
To be appointed by county court,	237
Oath of office and bond,	"
Certified copy of bond, evidence,	"
Failing to give bond,	238
Penalty for acting without giving bond,	"
Public debtor ineligible to office of,	"
Duty of, in making collections,	"
To execute deeds for lands sold,	243
Shall pay over taxes collected,	245
Compensation to,	"
THEATRICAL SHEWS. &c.	
Prohibited on the Sabbath, except in certain cities,	77
THEFTS, THIEVES. (see crimes, larceny,)	
Thefts, (not enumerated.) how punished,	56
Thieves, harboring, concealing of, &c. how punished,	65
TOLLS.	
Militia going to, or returning from muster to pass all bridges and ferries toll free,	225
TOWNS.	
Town of Marianna incorporated,	21
Magnolia,	289
Quincey,	292
Key West,	296
TRADE, PUBLIC.	
Offences against, not enumerated, how pun- ished,	73
TREASURER, TERRITORIAL.	
Transcripts from the Books &c. of his office, made evidence,	145
Authorised to issue warrants in payment of all audited accounts against the Treasury,	198
TREASURY of the TERRITORY.	
Forging, altering &c. warrants, certificates &c. how punished,	57
Warrants to be issued from, in payment of audited accounts,	198
TRESPASS, Actions of,	
<i>Quare clausum fregit</i> , Defendant may dis- claim title in,	42

LIMITATION OF.	105
County court vested with concurrent jurisdiction in actions of,	213
TRIALS. (see Judicial proceedings.)	
Time of trial in civil cases,	32-33
In criminal cases,	121-122
New trials, motions for, when to be made,	39
When to operate as a supersedeas.	"
In Justices courts, may be granted,	99
Jury trials in, when allowed.	98
Of slaves, rules of practice,	189
TRUSTEES.	
Of slaves, permitting them to hire themselves out, liable to fine &c.,	179
TRUSTS.	
In lands, tenements &c. (except those arising by implication of law) to be in writing, and signed, and recorded,	157
So assignment of trusts,	
TURNPIKES.	
Injuring or destroying gates, parts of &c., how punished,	74
UNION ACADEMY.	
Act of incorporation,	279
USE and OCCUPATION.	
Action on the case for, allowed to <i>land lords</i> in certain cases,	202
If on such action, a parol demise be proved, effect thereof,	203
USES. (see Conveyances.)	
VAN PELT, JOHN,	
Divorced from his wife.	278
VAGRANTS.	
Who shall be deemed to be, and how punished,	71
VENIRE FACIAS. Writs of.	
How to be issued, (see Juries,) .	147-148
VENUE.	
Changing of, in <i>civil cases</i> ,	35
Petition and affidavit of cause,	"
Duty of the Clerk where suit is pending,	36
In <i>criminal cases</i> .	
For what causes,	78
Duty of Judge granting change of Venue,	79

Duty and powers of the Marshal in such cases,	79
VERDICT.	
Judgment after, when to be stayed or reversed,	40
Jurors fee for verdict rendered,	172
VOLUNTEERS, MILITIA.	
Companies of, how formed,	234
WAKULLA RIVER.	
Samuel Crosby authorized to establish a fer- ry over,	260
WALKER, GEORGE,	
Admitted to practice law,	263
WALTON COUNTY.	
Boundaries of,	222
County court of, time of holding,	224
WALTON, GEORGE.	
Treasurer authorized to grant discharge to, from all demands,	299
WARDS. (see <i>Guardian and Ward.</i>)	
WASHINGTON COUNTY.	
Superior court of Jackson to have jurisdiction over,	210
Boundaries of,	222
County court of, time of holding,	224
WARRANTS. (see <i>Justices of the Peace, crimes &c. Negroes and slaves.</i>)	
Not to be served on Sunday, except in special cases,	38
WATKINS, MAHALA, divorced from her hus- band John R. Watkins,	277
WEIGHTS and MEASURES.	
Selling by false weights and measures, how punished,	72
WILLS, and PROBATES of.	
Forging or counterfeiting Wills, how punished,	57
Depositions <i>de bene esse</i> , to prove wills,	118
Probate of wills and letters testamentary, when to be made.	126
Where to be deposited and recorded,	129
Certified copies of, evidence,	"
Certified copies of, heretofore recorded, made evidence,	"
Persons capable of making will,	141
How signed and attested,	"

How revoked,	141
Nuncupative Will, when good,	142
How and when to be proved,	"
Probate of such Will, how and when granted.	"
Will of personality, how revoked,	"
Wills, how admitted to probate,	"
Probate, how far evidence of validity of Will,	143
How revoked,	"
Foreign probate, force and effect of.	"
WITNESSES.	
<i>In civil cases.</i>	
Subpoenas for, when to issue, how served,	36
Failing to attend, may be attached and fined,	"
Their duty when summoned, to attend from day to day until discharged,	37
Pay of a witness,	"
Clerk to examine and certify account,	"
Effect of such certified account,	"
Absent witnesses, commission to take testi- mony of,	115
<i>In criminal cases.</i>	
May be recognized to appear,	120
Prisoner entitled to have witnesses sum- moned before and after examination,	121
Fees of witnesses,	172
Any number of names may be inserted in one subpoena,	173
Party not chargeable with more than three Subpoenas at any one term,	"
Negroes and Mulattoes, when witnesses,	178
WIVES.	
(See Alimony, Divorces, Husband and Wife.)	
Crimes committed by, under coercion of hus- band, not liable to punishment therefor,	49
Dower of, (see dower,)	15
How relinquished,	159
In slaves, what interest,	16
When entitled to Administration,	126
Entitled to a certain portion of husband's estate, though insolvent,	180
WRITS. (see Judicial proceedings.)	
Except for breaches of the peace not to be served on Sunday, unless in special cases,	38

